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IN THE YEAR

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BENGAL SECRETARIAT LIBRARY

TITLES OF ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1890.

I. An Act to make better provision for recovering certain public demands.

II. „ to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

III. „ to amend Acts VI and VII of 1884.

IV. „ to amend the Central Provinces Civil Courts Act, 1885.

V. „ to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881.

VI. „ to provide for the Vesting and Administration of Property held in trust for charitable purposes.

VII. „ to enable the Comptoir National D'Escompte de Paris to sue and be sued in the name of the Chief Manager for the time being of the Indian Agencies of the said Comptoir.

VIII. „ to consolidate and amend the law relating to Guardian and Ward.

IX. „ to consolidate, amend and add to the law relating to Railways in India.

X. „ to amend Act XXV of 1867.

XI. „ for the Prevention of Cruelty to Animals.

XII. „ to amend the Indian Tariff Act, 1882.

XIII. „ to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting spirit.

XIV. „ to amend the Schedule to the Petroleum Act, 1886.

XV. „ to amend the Indian Paper Currency Act, 1882.

XVI. „ to amend the Births, Deaths and Marriages Registration Act, 1886.

XVII. „ to provide for certain matters in connection with the taking of the Census.

XVIII. An Act to amend the Indian Emigration Act, 1883.
XIX. „ to amend the Indian Salt Act, 1882.
XX. „ to provide for the better administration of the North-Western Provinces and Oudh and to amend certain enactments in force in those Provinces and in Oudh.

BENGAL SECRETARIAT LIBRARY

ACT No. I of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 14th February, 1890.*)

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Revenue Recovery Act, 1890.

(*2*) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "district" includes a presidency-town:

(*2*) "Collector" means the chief officer in charge of the land-revenue administration of a district; and

(*3*) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

Recovery of public demands by enforcement of process in other districts than those in which they become payable.

3. (*1*) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the

[*Price one anna and nine pies.*]

the form as nearly as may be of the schedule, stating—

(*a*) the name of the defaulter and such other particulars as may be necessary for his identification, and

(*b*) the amount payable by him and the account on which it is due.

(*2*) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(*3*) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

Remedy available to person denying liability to pay amount recovered under last foregoing section.

4. (*1*) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(*3*) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear

arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself.

Property liable to sale under this Act.

6. (*1*) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(*2*) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(*3*) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(*4*) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(*5*) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

Saving of local laws relating to revenue.

7. Nothing in the foregoing sections shall be construed—

(*a*) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue

land-revenue or of sums recoverable as arrears of land-revenue, or

(*b*) to authorise the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

Recovery in British India of certain public demands arising beyond British India.

8. When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

[*See section 3, sub-section* (*1*).]

From

The Collector of

To

The Collector of

Dated the of 18

The sum of Rs. is payable on account of by , son of , resident of , who is believed (to be at) (to have property consisting of at) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

A. B.

Collector of

Govt. of India Central Printing Office.—No 502 L D —22-2-90.—4,400.—A. McL.

ACT No. II of 1890.

Passed by the Governor General of India in Council.

(*Received the assent of the Governor General on the 14th February, 1890.*)

An Act to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864 (*an Act to constitute an Office of Official Trustee*), the Indian Succession Act, 1865, the Administrator General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows:—

X of 1865.
II of 1874.
V of 1881.

Act XVII of 1864.

1. In section 1 of Act XVII of 1864, before the definition of the expression "High Court", the following shall be inserted, namely:—

Addition to section 1, Act XVII, 1864.

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council:".

"Government."

2. After section 1 of the said Act the following shall be inserted, namely:—

Insertion of new section after section 1, Act XVII, 1864.

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency

Construction of references to Presidencies.

[*Price three annas and six pies.*]

Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator General."

Substitution of new section for section 5.

3. For section 5 of the said Act the following shall be substituted, namely :—

Appointment, suspension and removal of Official Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment of section 6, Act XVII, 1864.

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

Amendment of section 7, Act XVII, 1864.

5. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee,".

Addition to section 11, Act XVII, 1864.

6. To section 11 of the said Act the following shall be added, namely :—

"Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration, in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

7. To

7. To the said Act, after section 32, the following shall be added, namely :—

Addition of sections to Act XVII, 1864.

"33. The Official Trustee shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper.

Compliance with requisitions for returns.

"34. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India,—

Division of the Presidency of Fort William in Bengal into Provinces.

(*a*) divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,

(*b*) define the limits of each of those Provinces, and

(*c*) appoint an Official Trustee for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely :—

(i) the office of Official Trustee of Bengal shall cease to exist :

(ii) the Official Trustee of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Official Trustee of Bengal had and performed as Official Trustee therein :

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in the Province, be discharged by the Governor General in Council :

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court of Judicature at Fort William in Bengal in respect of the territories and dominions included in a Province shall be discharged

discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf:

(v) in the foregoing provisions of this Act, the word 'Presidency' shall be deemed to include a Province, the expression 'Chief Justice' the Chief Justice, senior Judge or sole Judge, as the case may be, of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency: and,

(vi) generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the Province under this section.

(*2*) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into Provinces, and to or in which the Official Trustee of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Official Trustee of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Official Trustee of Bengal, and shall hold and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.

(*3*) The

(*3*) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (*1*)."

8. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

Official Trustees holding office at commencement of this Act.

The Indian Succession Act, 1865.

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely :—

X of 1865.

Addition of new section after section 326, Act X, 1865.

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

The Administrator General's Act, 1874.

10. In clause (*b*) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator General's Act, 1874, the word "Burma" shall be substituted for the words "British Burma", and to clause (*a*) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words "and under the administration of the

II of 1874.

Amendment of definitions of "Presidency of Bengal" and "Presidency of Bombay" in section 3, Act II, 1874.

Chief

Chief Commissioner of British Baluchistan" shall be added.

Substitution of new paragraph for first paragraph of section 37, Act II, 1874.

11. (*1*) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him," the following shall be substituted, namely:— IX of 1881.

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him;". X of 1865.

(*2*) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed. IX.

Addition of new section after section 41, Act II, 1874. Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

12. After section 41 of the said Act the following shall be inserted, namely:—

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of hisdeath, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices

notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Addition to section 64, Act II, 1874.

13. To section 64 of the said Act the following shall be added, namely :—

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely :—

(*a*) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,

(*b*) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant, and

(*c*) the relief of the immediate necessities of the family of the deceased,

and nothing in section 279, section 280 or section 281 of the Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made."

X of 1865.

Addition to Part VI, Act II, 1874.

14. To Part VI, and after section 66, of the said Act the following shall be added, namely :—

Compliance

"67. The Administrator General shall comply with such

with requisitions for returns.

such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

Addition to Act II, 1874, of a Part respecting the division of the Presidency of Bengal into Provinces.

15. To the said Act, after Part VI and section 67 thereof, the following shall be added, namely :—

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

Division of the Presidency of Bengal into Provinces.

68. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

(*a*) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,

(*b*) define the limits of each of those Provinces, and

(*c*) appoint an Administrator General for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely :—

(i) the office of Administrator General of Bengal shall cease to exist:

(ii) the Administrator General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein:

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to

to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:

(v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency:

(vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province, and

(vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment

enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(*2*) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(*3*) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (*1*).

(*4*) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the Town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863." 26 & 27 Vict., c 57.

The Probate and Administration Act, 1881.

Addition of new section after section 145, Act V, 1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely:— V of 1881.

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to

to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

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ACT No. III of 1890.

Passed by the Governor General of India in Council.

(Received the assent of the Governor General on the 21st February, 1890.)

An Act to amend Acts VI and VII of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884, in manner hereinafter appearing; It is hereby enacted as follows:—

VI of 1884.
VII of 1884.

Inland Steam-vessels Act, 1884.

1. For the definition of "inland water" in section 5, clause (*3*), of the Inland Steam-vessels Act, 1884, the following shall be substituted, namely:—

VI of 1884.

Amendment of section 5 (*3*), Act VI, 1884.

"(*3*) 'inland water' means any canal, river, lake or navigable water in British India:".

2. After section 8 of the said Act the following shall be inserted, namely:—

Insertion of new section after section 8 Fees in respect of surveys.

"8A. Before a survey under this Act is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

(*a*) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and,

(*b*) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local Government,

[*Price two annas and three pies*]

Government, from time to time, by notification in the official Gazette, directs."

Repeal of part of section 10 (*3*), Act VI, 1884.

3. In section 10, sub-section (*3*), of the said Act the words "in addition to the fee payable for the certificate" are hereby repealed.

Amendment of, and addition to, section 11, Act VI, 1884.

4. (*1*) In section 11, sub-section (*1*), of the said Act the words "fees and other" are hereby repealed.

(*2*) To the same section the following sub-section shall be added, namely:-

"(*4*) The Local Government may, from time to time, delegate,—

(*a*) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (*1*), of granting a certificate of survey under that sub-section;

(*b*) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (*3*), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (*a*) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9."

Repeal of section 12, Act VI, 1884.

5. Section 12 of the said Act is hereby repealed.

Amendment of section 17, Act VI, 1884.

6. In section 17 of the said Act, between the word "which" and the word "granted", in both places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section 19, Act VI, 1884.

7. In section 19, sub-section (*1*), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

8. In

8. In section 21, sub-section (*2*), clause (*d*), of the said Act, for the words "for certificates of survey" the words "in respect of surveys" shall be substituted. Amendment of section 21, Act VI, 1884.

9. After section 25 of the said Act the following shall be inserted, namely:— Insertion of new section after section 25, Act VI, 1884.

"25A. (*1*) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, or as an engine-driver, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class or second-class master, or as an engineer, or as an engine-driver, as the case may be, of an inland steam-vessel. Grant of certificates of service.

(*2*) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination."

Repealed 10. In section 26 of the said Act the words "or service" shall be inserted after the word "competency". Amendment of section 26, Act VI, 1884.

Repealed a.c. 1877 11. To section 29 of the said Act the following shall be added, namely:— Addition to section 29, Act VI, 1884.

"The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(*a*) fix the fees to be paid for such certificates, and

(*b*) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

12. To Chapter VII of the said Act the following shall be added, namely:— Addition to Chapter VII, Act VI, 1884.

"51A. (*1*) The Local Government may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of Power for Local Government to make rules for protection of passengers.

passengers,

passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.

(*2*) Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees."

Insertion of new section after section 54, Act VI, 1884.

13. After section 54 of the said Act the following shall be inserted, namely :—

Penalty for having excessive number of passengers on board.

"54A. If an inland steam-vessel has on board thereof or on or in any part thereof a number of passengers which is greater than the number of passengers set forth in the certificate of survey as the number which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and master shall, for every passenger over and above that number, be each liable to a fine which may extend to ten rupees."

Amendment of heading to second schedule, Act VI, 1884.

14. In the second schedule to the said Act, for the words and figures "*See section 12*" the words, figure and letter "*See section 8A*" shall be substituted.

Indian Steam-ships Act, 1884.

Insertion of new section after section 10, Act VII, 1884.

15. After section 10 of the said Act the following shall be inserted, namely :—

Fees in respect of surveys.

"10A. Before a survey under this Act is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

(*a*) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed or according to any other prescribed rates; and

(*b*) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of

of the expense (if any) of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs."

16. In section 12, sub-section (*3*), of the said Act, the words "in addition to the fee payable for the certificate" are hereby repealed.

Repeal of part of section 12 (*3*), Act VII, 1884

17. (*1*) In section 13, sub-section (*1*), of the said Act, the words "fees and other" are hereby repealed.

Amendment of, and addition to section 13, Act VII, 1884.

(*2*) To the same section the following sub-section shall be added, namely :-

"(*4*) The Local Government may, from time to time, delegate,—

(*a*) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to Local Government by sub-section (*1*), of granting a certificate of survey under that sub-section;

(*b*) of its own authority, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (*3*), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (*a*) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11."

18. Section 14 of the said Act is hereby repealed.

Repeal of section 14, Act VII, 1884.

19. In section 19 of the said Act, between the word "which" and the word "granted", in both the places where the expression "which granted" occurs, the words "or whose delegate" shall be inserted.

Amendment of section 19, Act VII, 1884.

20. In section 21, sub-section (*1*), of the said Act, after the words "on the application of the owner or master," the words "and the payment by him of such fee,

Amendment of section 21, Act VII, 1884.

fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require," shall be inserted.

Amendment of section 24, Act VII, 1884.

21. In section 24, sub-section (*2*), clause (*d*), for the words "for certificates of survey" the words "in respect of surveys" shall be substituted.

Amendment of heading to second schedule, Act VII, 1884.

22. In the schedule to the said Act, for the words and figures "*See section 14*" the words, figures and letter "*See section 10A*" shall be substituted.

Government of India Central Printing Office.—No. 543 L. D.—27-2-90.—4,400.—A. McL

ACT No. IV of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st February, 1890.)

An Act to amend the Central Provinces Civil Courts Act, 1885.

WHEREAS it is expedient to amend the Central Provinces Civil Courts Act, 1885; It is hereby enacted as follows:—

XVI of 1885.

Amendment of section 16 of Act XVI of 1885.

1. In section 16 of the Central Provinces Civil Courts Act, 1885, there shall be inserted after the words "Code of Civil Procedure" the words and figures "and in the Provincial Small Cause Courts Act, 1887"; and for the proviso to the same section the following shall be substituted, namely:—

XVI of 1885.

IX of 1887.

"Provided that, except in so far as it may affect the exclusive jurisdiction of a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes, a direction given under this section shall not empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction."

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Govt. of India Central Printing Office.—No. 544 L. D.—27 2-90.—4,100.—A. McL.

BENGAL SECRETARIAT LIBRARY

ACT No. V OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 28th February, 1890.)

An Act to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881.

WHEREAS it is expedient to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881; It is hereby enacted as follows:—

VII of 1878.
XIX of 1881.

Title and commencement.

1. (*1*) This Act may be called the Forest Act, 1890: and

(*2*) It shall come into force at once.

Indian Forest Act, 1878.

Amendment of section 2, Act VII, 1878.

2. (*1*) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely:—

VII of 1878.

"'Tree' includes palms, bamboos, stumps, brushwood and canes:".

(*2*) For the definition of "Timber" in the same section the following shall be substituted, namely:—

"'Timber' includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:".

(*3*) For the definition of "Forest-produce" in the same section the following shall be substituted, namely:—

"'Forest-produce' includes—

(*a*) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahuá flowers and myrabolams, and

(*b*) the

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(*b*) the following when found in, or brought from, a forest, that is to say :—

(*i*) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(*ii*) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(*iii*) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(*iv*) peat, surface-soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries) : ".

Amendment of section 4, Act VII, 1878.

3. For clause (*b*) of section 4 of the said Act the following shall be substituted, namely :—

" (*b*) specifying as nearly as possible the situation and limits of such land ; and ".

Addition to section 5, Act VII, 1878.

4. To section 5 of the said Act the words " except in accordance with rules prescribed by the Local Government " shall be added.

Amendment of section 6, Act VII, 1878.

5. For clause (*a*) of section 6 of the said Act the following shall be substituted, namely :—

" (*a*) specifying as nearly as possible the situation and limits of the proposed forest ;".

Addition of new section after section 9, Act VII, 1878.

6. After section 9 of the said Act the following shall be inserted, namely :—

Treatment of claims relating to practice of shifting cultivation.

" 9A. (*1*) In the case of a claim relating to the practice of shifting cultivation, the Forest-Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government together

together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(*2*) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(*3*) If such practice is permitted wholly or in part, the Forest-Settlement-officer may arrange for its exercise—

(*a*) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(*b*) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(*4*) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government."

Amendment of section 25, Act VII, 1878.

7. For clause (*b*) of section 25 of the said Act the following shall be substituted, namely : —

" (*b*) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest ; ".

Amendment of Chapters VII and VIII, Act VII, 1878.

8. (*1*) In the heading of Chapter VII of the said Act, for the words " OF THE DUTY ON TIMBER " the words " OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE " shall be substituted.

(*2*) In section 39 of the said Act, after the word " timber ", in both places where the word occurs, the words " or other forest-produce " shall be inserted.

(*3*) In

(*3*) In clause (*a*) of section 41 of the said Act, for the words "and other" the words "or other" shall be substituted.

Addition to section 41, Act VII, 1878.

(*4*) To section 41 of the said Act the following shall be added, namely:—

"The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area."

Amendment of section 47, Act VII, 1878.

9. In section 47 of the said Act the words "within three months" shall be substituted for the words "within two months".

Addition to section 48, Act VII, 1878.

10. To section 48 of the said Act, after the word "encumbrances" the words "not created by him" shall be added.

Amendment of section 56, Act VII, 1878.

11. In section 56 of the said Act, for the words "whom he deems to be entitled to the same" the words "whom the Magistrate deems to be entitled to the same" shall be substituted.

Amendment of section 63, Act VII, 1878.

12. In section 63 of the said Act, after the words "before the Magistrate having jurisdiction in the case", the words "or to the officer in charge of the nearest police-station" shall be added.

Amendment of section 67, Act VII, 1878.

13. (*1*) For section 67 of the said Act the following shall be substituted, namely:—

Power to compound offences.

"67. (*1*) The Local Government may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(*2*) On

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(*3*) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (*1*), clause (*a*), shall in no case exceed the sum of fifty rupees."

14. After section 83 of the said Act the following shall be added, namely:— Addition of new section after section 83, Act VII, 1878.

"84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue." Recovery of penalties due under bond.

IX of 1872.

Burma Forest Act, 1881.

15. (*1*) For the definition of "tree" in section 3 of the Burma Forest Act, 1881, the following shall be substituted, namely:— Amendment of section 3, Act XIX, 1881.

XIX of 1881.

"'tree' includes palms, bamboos, stumps, brushwood and canes:".

(*2*) For the definition of "forest-produce" in the same section the following shall be substituted, namely:—

"'forest-produce' includes—

(*a*) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac,

lac, mahua flowers and myrabolams, and

(*b*) the following when found in, or brought from, a forest, that is to say :—

(*i*) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(*ii*) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(*iii*) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(*iv*) peat, surface-soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries) :".

Amendment of section 26, Act XIX, 1881.

16. For clause (*b*) of section 26 of the said Act the following shall be substituted, namely :—

"(*b*) sets fire to a reserved forest, or, in contravention of any rules made by the Chief Commissioner, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,".

Amendment of Chapters V and VI, Act XIX, 1881.

17. (*1*) In the heading of Chapter V of the said Act, for the words "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE", and in the heading of Chapter VI of the said Act, for the words "OF THE CONTROL OF TIMBER IN TRANSIT" the words "OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT" shall be substituted.

(*2*) In sections 39, 41 and 42, after the word "timber", wherever it occurs, the words "or other forest-produce" shall be inserted.

(*3*) Throughout section 43, after the word "timber", except in the first paragraph, where the word first

first occurs, and in clauses (*e*), (*i*), (*l*) and (*m*), the words "or other forest-produce" shall be inserted.

(*4*) To section 43 of the said Act the following shall be added, namely:—

"The Chief Commissioner may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area."

18. In section 48 of the said Act the words "within three months" shall be substituted for the words "within two months". Amendment of section 48, Act XIX, 1881.

19. In section 63 of the said Act, after the words "before the Magistrate having jurisdiction in the case", the words "or to the officer in charge of the nearest police-station" shall be added. Amendment of section 63, Act XIX, 1881.

20. For section 66 of the said Act the following shall be substituted, namely:— Amendment of section 66, Act XIX, 1881.

"66. (*1*) The Chief Commissioner may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,— Power to compound offences.

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(*3*) A

(*3*) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (*1*), clause (*a*), shall in no case exceed the sum of fifty rupees."

Repeal of section 70 (*k*), Act XIX, 1881.

21. Clause (*k*) of section 70 of the said Act is hereby repealed.

Addition of new section after section 80, Act XIX, 1881.

22. After section 80 of the said Act the following section shall be added, namely :—

Recovery of penalties due under bond.

"**81.** When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue." IX of 1872.

Government of India Central Printing Office.—No. 616 L. D.—7-3-90.—4,400.—A. McL.

ACT No. VI of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 7th March, 1890.)

An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Charitable Endowments Act, 1890.

(*2*) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(*3*) It shall come into force on the first day of October, 1890.

Definition.

2. In this Act "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

Appointment and incorporation of Treasurer of Charitable Endowments.

3. (*1*) The Governor General in Council may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to any Local Government.

(*2*) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and, as such Treasurer, shall have

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have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

Orders vesting property in Treasurer.

4. (*1*) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(*2*) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(*3*) A Local Government shall not make an order under sub-section (*1*) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely :—

(*a*) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(*b*) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(*c*) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

(*d*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India;

(*e*) a security expressly authorised by any order which the Governor General in Council may make in this behalf.

(*4*) An

(*4*) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

Schemes for administration of property vested in the Treasurer.

5. (*1*) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government, if it thinks fit, may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.

(*2*) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(*3*) A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(*4*) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

(*5*) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust

so

so far as they can be ascertained, and, in the opinion of the Local Government, effect can reasonably be given to them.

(*6*) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

Mode of applying for vesting orders and schemes.

6. (*1*) The application referred to in the two last foregoing sections must be made,—

(*a*) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them; and

(*b*) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(*2*) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

Exercise by Governor General in Council of powers of Local Government.

7. (*1*) The Governor General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(*2*) When the Governor General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

Bare trusteeship of Treasurer.

8. (*1*) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

(*2*) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall

shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(*3*) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

Annual publication of list of properties vested in Treasurer.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (*2*) of the last foregoing section.

Limitation of functions and powers of Treasurer.

10. (*1*) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(*2*) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (*3*), clause (*a*), (*b*), (*c*), (*d*) or (*e*), or in the purchase of immoveable property.

(*3*) When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor General in Council under this section, of any property, it shall vest in the person or persons acting

acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

Provision for continuance of office of Treasurer in certain contingencies.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor General in Council may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

Transfer of property from one Treasurer to another.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

Power to frame forms and make rules.

13. The Governor General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and may make such rules consistent with this Act as he may deem expedient for—

(*a*) prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments;

(*b*) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments;

(*c*) regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under section 5;

(*d*) prescribing

(*d*) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited; and,

(*e*) generally, carrying into effect the purposes of this Act.

Indemnity to Government and Treasurer.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

Saving with respect to Advocate General and Official Trustee.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

General controlling authority of Governor General in Council.

16. A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the Governor General in Council.

Government of India Central Printing Office.—No. 34 L D.—14-3-90.—4,400.—A. McL.

ACT No. VII of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 14th March, 1890.*)

An Act to enable the Comptoir National D'Escompte de Paris to sue and be sued in the name of the Chief Manager for the time being of the Indian Agencies of the said Comptoir.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of banking business under the name of the Comptoir National D'Escompte de Paris:

And whereas the said Company was constituted and established under and by virtue of certain resolutions passed on the 3rd and 11th June, 1889, by General Meetings of Shareholders;

And whereas by the Articles of Association of the said Company it is provided (among other things) that the said Company may continue to exist and carry on business for a term of fifty years from the first day of May, 1889; that the shareholders of the Company shall be responsible only to the amount of their shares respectively; that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass; and that the Company may establish Agencies or Branches as well in France as in the French Colonies and abroad, such Agencies to be organized and conducted in the same manner as the Comptoir National D'Escompte itself;

And whereas Agencies of the said Company have been recently established in Calcutta and in Bombay;

And

[*Price three annas.*]

And whereas on the thirtieth day of April, 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperior of the French, comprising the following articles, that is to say: "*First*—The High Contracting Parties declare that they mutually grant to all Companies and other Associations, commercial, industrial or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. *Second*—It is agreed that the stipulations of the preceding article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. *Third*—The present Convention is concluded without limit as to duration. Either of the High Powers shall, however, be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers, moreover, reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable";

And whereas it is desirable that effect should be given to the said Convention so far as the Comptoir National D'Escompte de Paris and its Agencies now or hereafter established in British India are concerned;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Comptoir National D'Escompte de Paris Act, 1890.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definition.

2. In this Act, unless there is something repugnant in the subject or context, the expressions "Chief Manager of the Agencies in British India of the said Comptoir" and "Chief Manager" include any person for

for the time being acting as Chief Manager of the said Agencies in British India of the Comptoir National D'Escompte de Paris, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the sections of this Act may be instituted or carried on.

Suits by or against Comptoir to be instituted in name of Chief Manager and not to abate on his death or removal.

3. On and from the commencement of this Act, all suits and other proceedings whatever, for any injury or wrong done to any moveable or immoveable property of the said Comptoir, in whomsoever the same may for the time being be vested, whether in the said Comptoir or in some person or persons in trust for the said Comptoir, or upon or in respect of any present liability to the said Comptoir, or upon any bonds, covenants, contracts or agreements which already have been or hereafter shall be given to or entered into with the said Comptoir, or to or with any person whomsoever in trust for the said Comptoir, or wherein the said Comptoir is or shall be interested, and also all instruments and petitions to found any adjudication of insolvency in any Court against any person indebted to the said Comptoir, and liable to have been made insolvent by the laws now or at any time hereafter in force relating to insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on by or on behalf of the said Comptoir, or wherein the said Comptoir is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir, and all suits and proceedings, as well for subsisting as future accruing claims, debts or demands to be commenced against the said Comptoir by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall be commenced

commenced and prosecuted against the Chief Manager as the nominal defendant or respondent for and on behalf of the said Comptoir, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Chief Manager.

In criminal proceedings, property of Comptoir to be describable as property of Comptoir or Chief Manager.

4. On and from the commencement of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir, for fraud or injury upon or against the said Comptoir, or for any offence whatever relating to any money, notes, bills, effects, securities or any moveable or immoveable property of the said Comptoir, or for any other offence against the said Comptoir, it shall be lawful to state such money, notes, bills, effects and securities, and other moveable and immoveable property, in whomsoever the same may be vested, whether in the said Comptoir, or in some person or persons in trust for the said Comptoir, to be the money, notes, bills, effects and securities or property of the said Comptoir, or of the Chief Manager of the Agencies in British India of the said Comptoir; and any offence committed with intent to injure or defraud the said Comptoir shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir, or such Chief Manager, and any offender may thereupon be lawfully convicted of any such offence, and in all other proceedings, in which, before the commencement of this Act, it would have been necessary to state the names of the persons composing the said Comptoir, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation or removal of such Chief Manager shall not abate or render defective, or in anywise affect or prejudice, such criminal proceedings.

Suit against the Comptoir on contract not to be

5. No suit which may be commenced in any Court in British India against the said Comptoir, or the Chief Manager of the Agencies in British India of the said

said Comptoir, upon or arising out of any contract entered into by or on behalf of the said Comptoir, shall be in anywise affected or defeated by reason of the plaintiff therein, or of any other person who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir; but any shareholder or partner of or in the said Comptoir shall have the same right of suit and remedy to be proceeded in and enforced in the same manner against the said Comptoir or such Chief Manager upon any contract, and upon and for any debt, damage or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir.

defeated because plaintiff is a partner.

6. No suit commenced by virtue of this Act by or on behalf of the said Comptoir in the name of the Chief Manager, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir, or for the recovery of any debt, damage or demand whatsoever due or owing to the said Comptoir, or for any other cause or any other account, shall be in anywise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir, but the said Comptoir shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage or demand whatsoever, which the said Comptoir might have had if such cause of suit had arisen with a stranger and not with a shareholder or partner of or in the said Comptoir.

Suit by Comptoir on contract not to be defeated because defendant is a partner.

7. The Chief Manager of the Agencies in British India of the said Comptoir shall have an office for the transaction of the business of the Comptoir. He shall cause a memorial, in the form and to the effect set forth in Schedule A, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the

Chief Manager to cause a memorial to be enrolled containing certain particulars.

High

High Court of Judicature within the jurisdiction of which his office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the Chief Manager, and shall be accompanied by, or have annexed thereto, or endorsed thereon, copies of the resolutions, notarial acts, articles and other instruments under which the said Comptoir is established, and copies of the various rules under which the business of the said Comptoir is conducted. The memorial shall set forth the situation of the office of the Chief Manager, and of every other office and place in British India, in or at which the business of the said Comptoir is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the said Comptoir shall have set aside for its working capital in British India, and if the last-mentioned capital is other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

8. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the resolutions, notarial acts, articles and other instruments accompanying the memorial, shall be authenticated by the signature and seal of a notary public in France, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

Memorial of change in Chief Manager or in facts set forth in former memorial to be enrolled.

9. Whenever any new Chief Manager of the Agencies in British India of the said Comptoir shall be appointed, or any change in, or addition to, any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in Schedule B, verified as aforesaid, shall, within twelve months after such appointment, change or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement

statement of the change or addition which may have taken place in the facts aforesaid.

10. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of section 199 of the Indian Penal Code.

False declaration an offence under the Penal Code.

XLV of 1860.

11. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no suit shall be brought by the said Comptoir under the authority of this Act, and, until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Comptoir not to sue till enrolment of memorial, and person named in last memorial to remain liable till enrolment of fresh memorial.

12. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was the Chief Manager at the time of such verification.

Examined copy to be a proof of contents of memorial.

13. Execution on every judgment, decree and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager shall and may be issued and enforced against any property in British India belonging to the said Comptoir. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment shall in all suits against the Chief Manager

Judgment or order against Chief Manager how to be executed.

XIV of 1882.

Manager have full force and effect as regards property in British India belonging to the said Comptoir. So long as the full amount recoverable by any person under any judgment, decree or order shall not have been recovered, no execution issued from any Court in British India, nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth day of April, 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

14. No person having or claiming to have any demand upon or against the said Comptoir shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against the same or any other Chief Manager; and in case of any demand which the said Comptoir now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir or not, and which shall have been determined in any suit commenced or prosecuted by the Chief Manager, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other Chief Manager.

SCHEDULE A.

(*See section 7.*)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth the particulars prescribed by section 7 of the said Act.

Situation of office of Chief Manager . . .

Situation of other offices and places in British India .

Entire

Entire nominal capital of the Comptoir . . .
Paid-up capital . . . . . .
Number of shares . . . . . .
Amount of each share . . . . . .
Amount of capital set aside for operations in British India . . . . . .
Mode in which the same is invested . . .
Name in which the same is invested . . .

I, *A. B.*, Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Sd.) *A. B.*

Declared before me, a Judge of the High Court of Judicature at

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SCHEDULE B.

(*See section 9.*)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth particulars of change or changes as prescribed by section 9 of the said Act.

Name and description of new Chief Manager,

or

New situation of office of Chief Manager,

or

Other change or changes.

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Sd.) *C. D.*

Declared before me, a Judge of the High Court of Judicature at

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THE GUARDIANS AND WARDS ACT, 1890.

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[*Price seven annas and six pies.*]

CHAPTER III.

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THE SCHEDULE.—ENACTMENTS REPEALED.

BENGAL SECRETARIAT LIBRARY

ACT No. VIII of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st March, 1890.)

An Act to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Guardians and Wards Act, 1890.

(*2*) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(*3*) It shall come into force on the first day of July, 1890.

Repeal.

2. (*1*) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(*2*) But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act; and

(*3*) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. This

Saving of jurisdiction of Courts of Wards and Chartered High Courts.

3. This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor General in Council or by a Governor or Lieutenant-Governor in Council; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 and 25 Victoria, chapter 104 (*an Act for establishing High Courts of Judicature in India*).

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is to be deemed not to have attained his majority: IX of 1875.

(*2*) "guardian" means a person having the care of the person of a minor or of his property, or of both his person and property:

(*3*) "ward" means a minor for whose person or property, or both, there is a guardian:

(*4*) "District Court" has the meaning assigned to that expression in the Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction: XIV of 188

(*5*) "the Court" means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides:

(*6*) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes any officer whom the Local Government, by notification in the official Gazette, may, by name or in

in virtue of his office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act:

(*7*) "European British subject" means an European British subject as defined in the Code of Criminal Procedure, 1882, and includes any Christian of European descent: and

X of 1882.

(*8*) "prescribed" means prescribed by rules made by the High Court under this Act.

CHAPTER II.

Appointment and Declaration of Guardians.

Power of parents to appoint in case of European British subjects.

5. (*1*) Where a minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

(*a*) by the father of the minor, or,

(*b*) if the father is dead or incapable of acting, by the mother.

(*2*) Where guardians have been appointed under sub-section (*1*) by both parents, they shall act jointly.

Saving of power to appoint in other cases.

6. In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

Power of the Court to make order as to guardianship.

7. (*1*) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(*a*) appointing a guardian of his person or property, or both, or

(*b*) declaring a person to be such a guardian,

the Court may make an order accordingly.

(*2*) An

(*2*) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(*3*) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

Persons entitled to apply for order.

8. An order shall not be made under the last foregoing section except on the application of—

(*a*) the person desirous of being, or claiming to be, the guardian of the minor, or

(*b*) any relative or friend of the minor, or

(*c*) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(*d*) the Collector having authority with respect to the class to which the minor belongs.

Court having jurisdiction to entertain application.

9. (*1*) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(*2*) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(*3*) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would

would be disposed of more justly or conveniently by any other District Court having jurisdiction.

Form of application.

10. (*1*) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,— XIV of 1882.

(*a*) the name, sex, religion, date of birth and ordinary residence of the minor;

(*b*) where the minor is a female, whether she is married, and, if so, the name and age of her husband;

(*c*) the nature, situation and approximate value of the property, if any, of the minor;

(*d*) the name and residence of the person having the custody or possession of the person or property of the minor;

(*e*) what near relations the minor has, and where they reside;

(*f*) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment;

(*g*) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result;

(*h*) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both;

(*i*) where the application is to appoint a guardian, the qualifications of the proposed guardian;

(*j*) where

(*j*) where the application is to declare a person to be a guardian, the grounds on which that person claims;

(*k*) the causes which have led to the making of the application; and

(*l*) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(*2*) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (*1*).

(*3*) The application must be accompanied by a declaration of the willingness of the proposed guardian to act, and the declaration must be signed by him and attested by at least two witnesses.

Procedure on admission of application.

11. (*1*) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

(*a*) to be served in the manner directed in the Code of Civil Procedure on— XIV of 1882.

(i) the parents of the minor if they are residing in British India,

(ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,

(iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and

(iv) any other person to whom, in the opinion of the Court, special notice of the application should be given; and

(*b*) to

(*b*) to be posted on some conspicuous part of the court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(*2*) The Local Government may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (*1*), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(*3*) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (*2*).

Power to make interlocutory order for production of minor and interim protection of person and property.

12. (*1*) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

(*2*) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (*1*) for her production shall require her to be produced in accordance with the customs and manners of the country.

(*3*) Nothing in this section shall authorise—

(*a*) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody

custody with the consent of her parents, if any, or

(*b*) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

Hearing of evidence before making of order.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

Simultaneous proceedings in different Courts.

14. (*1*) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

(*2*) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

(*3*) In any other case in which proceedings are stayed under sub-section (*1*), the Courts shall report the case through the Local Government to the Governor General in Council, and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

Appointment or declaration of several guardians.

15. (*1*) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

(*2*) On the death of a father, being an European British subject. who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be

be guardian of the child jointly with the guardian appointed by the father.

(*3*) On the death of a mother, being an European British subject, who during the incapacity of the father of her minor child has, by will or other instrument to take effect on her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.

(*4*) Separate guardians may be appointed or declared of the person and of the property of a minor.

(*5*) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

Appointment or declaration of guardian for property beyond jurisdiction of the Court.

16. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

Matters to be considered by the Court in appointing guardian.

17. (*1*) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

(*2*) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(*3*) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(*4*) As

(*4*) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but, other things being equal, if the minor is a male of tender years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business, then to the father.

(*5*) The Court shall not appoint or declare any person to be a guardian against his will.

Appointment or declaration of Collector in virtue of office.

18. Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing or declaring him shall be deemed to authorise and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property, or both, as the case may be.

Guardian not to be appointed by the Court in certain cases.

19. Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian of the person—

(*a*) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or,

(*b*) subject to the provisions of this Act with respect to European British subjects, of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or

(*c*) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

CHAPTER III.

CHAPTER III.

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

General.

Fiduciary relation of guardian to ward.

20. (*1*) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

(*2*) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

Capacity of minors to act as guardians.

21. A minor is incompetent to act as guardian of any minor except his own wife or child or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

Remuneration of guardian.

22. (*1*) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

(*2*) When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by general or special order, directs.

Control of Collector as guardian.

23. A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local Government or of such authority as that Government, by notification in the official Gazette, appoints in this behalf.

Guardian

(*Chapter III.—Duties, Rights and Liabilities of Guardians.—Sections 24-27.*)

Guardian of the Person.

Duties of guardian of the person.

24. A guardian of the person of a ward is charged with the custody of the ward and must look to his support, health and education, and such other matters as the law to which the ward is subject requires.

Title of guardian to custody of ward.

25. (*1*) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian.

(*2*) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the Code of Criminal Procedure, 1882. X of 1882

(*3*) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

Removal of ward from jurisdiction.

26. (*1*) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(*2*) The leave granted by the Court under sub-section (*1*) may be special or general, and may be defined by the order granting it.

Guardian of Property.

Duties of guardian of property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

28. Where

Powers of testamentary guardian.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immoveable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

Limitation of powers of guardian of property appointed or declared by the Court.

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

(*a*) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immoveable property of his ward, or

(*b*) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

Voidability of transfers made in contravention of section 28 or section 29.

30. A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

Practice with respect to permitting transfers under section 29.

31. (*1*) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(*2*) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge

Judge of the Court with his own hand, or, when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

(*3*) The Court may in its discretion attach to the permission the following among other conditions, namely:—

(*a*) that a sale shall not be completed without the sanction of the Court;

(*b*) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;

(*c*) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;

(*d*) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(*4*) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

Variation of powers of guardian of property

32. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time

time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

appointed or declared by the Court.

33. (*1*) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

(*2*) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(*3*) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

34. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

Obligations on guardian of property appointed or declared by the Court.

(*a*) if so required by the Court, give a bond, as nearly as may be in the prescribed form, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward;

(*b*) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court, or within such other time as the Court directs,

directs, a statement of the immoveable property belonging to the ward, of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward;

(*c*) if so required by the Court, exhibit his accounts in the Court at such times and in such form as the Court from time to time directs;

(*d*) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs; and

(*e*) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

Suit against guardian where administration-bond was taken.

35. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

36. (*1*) Where

36. (*1*) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

Suit against guardian where administration-bond was not taken.

(*2*) The provisions of sub-section (*1*) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.

XIV of 1882.

37. Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

General liability of guardian as trustee.

Termination of Guardianship.

38. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

Right of survivorship among joint guardians.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes, namely:—

Removal of guardian.

(*a*) for abuse of his trust;

(*b*) for continued failure to perform the duties of his trust;

(*c*) for

(*c*) for incapacity to perform the duties of his trust;

(*d*) for ill-treatment, or neglect to take proper care, of his ward;

(*e*) for contumacious disregard of any provision of this Act or of any order of the Court;

(*f*) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward;

(*g*) for having an interest adverse to the faithful performance of his duties;

(*h*) for ceasing to reside within the local limits of the jurisdiction of the Court;

(*i*) in the case of a guardian of the property, for bankruptcy or insolvency;

(*j*) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed—

(*a*) for the cause mentioned in clause (*g*) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or

(*b*) for the cause mentioned in clause (*h*) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

Discharge of guardian.

40. (*1*) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(*2*) If

(*2*) If the Court finds that there is sufficient reason for the application, it shall discharge him, and, if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.

Cessation of authority of guardian.

41. (*1*) The powers of a guardian of the person cease—

(*a*) by his death, removal or discharge;

(*b*) by the Court of Wards assuming superintendence of the person of the ward;

(*c*) by the ward ceasing to be a minor;

(*d*) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit; or,

(*e*) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(*2*) The powers of a guardian of the property cease—

(*a*) by his death, removal or discharge;

(*b*) by the Court of Wards assuming superintendence of the property of the ward; or

(*c*) by the ward ceasing to be a minor.

(*3*) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(*4*) When

(*4*) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

Appointment of successor to guardian dead, discharged or removed.

42. When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.

43. (*1*) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

(*2*) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(*3*) Except where it appears that the object of making an order under sub-section (*1*) or sub-section (*2*) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (*1*), to the guardian or, in a case under sub-section

sub-section (*2*), to the guardian who has not made the application.

(*4*) In case of disobedience to an order made under sub-section (*1*) or sub-section (*2*), the order may be enforced in the same manner as an injunction granted under section 492 or section 493 of the Code of Civil Procedure, in a case under sub-section (*1*), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (*2*), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

XIV of 1882.

(*5*) Except in a case under sub-section (*2*), nothing in this section shall apply to a Collector who is, as such, a guardian.

Penalty for removal of ward from jurisdiction.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for contumacy.

45. (*1*) In the following cases, namely :—

(*a*) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (*1*), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (*1*), or

(*b*) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (*b*) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (*c*) of that section,

section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (*d*) of that section, or

(*e*) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (*3*),

the person, guardian or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(*2*) If a person who has been released from detention on giving an undertaking under sub-section (*1*) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

Reports by Collectors and Subordinate Courts.

46. (*1*) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

(*2*) For the purpose of preparing the report the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the Code of Civil Procedure. XIV of 1882.

47. An

47. An appeal shall lie to the High Court from an order made by a District Court,— Orders appealable.

(*a*) under section 7, appointing or declaring or refusing to appoint or declare a guardian; or,

(*b*) under section 9, sub-section (*3*), returning an application; or,

(*c*) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian; or,

(*d*) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto; or,

(*e*) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section; or,

(*f*) under section 32, defining, restricting or extending the powers of a guardian; or,

(*g*) under section 39, removing a guardian; or

(*h*) under section 40, refusing to discharge a guardian; or,

(*i*) under section 43, regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order; or,

(*j*) under section 44 or section 45, imposing a penalty.

48. Save as provided by the last foregoing section and by section 622 of the Code of Civil Procedure, an order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise. Finality of other orders.

XIV of 1882.

49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made Costs.

by

by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

Power of High Court to make rules.

50. (*1*) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make rules consistent with this Act—

(*a*) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts;

(*b*) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted;

(*c*) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29;

(*d*) as to the circumstances in which such requisitions as are mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 34 should be made;

(*e*) as to the preservation of statements and accounts delivered and exhibited by guardians;

(*f*) as to the inspection of those statements and accounts by persons interested;

(*g*) as to the custody of money, and securities for money, belonging to wards;

(*h*) as to the securities on which money belonging to wards may be invested;

(*i*) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court; and,

(*j*) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(*2*) Rules under clauses (*a*) and (*i*) of sub-section (*1*) shall not have effect until they have been approved by the Local Government, nor shall any rule under this

this section have effect until it has been published in the official Gazette.

Applicability of Act to guardians already appointed by Court.

51. A guardian appointed by, or holding a certificate of administration from, a Civil Court under any enactment repealed by this Act shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it, as if he had been appointed or declared by the Court under Chapter II.

Amendment of Indian Majority Act.

IX of 1875.

52. In section 3 of the Indian Majority Act, 1875, for the words "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards," the following shall be substituted, namely:—

"every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure, has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age".

XIV of 1882.

Amendment of Chapter XXXI of the Code of Civil Procedure.

XIV of 1882.

53. Chapter XXXI of the Code of Civil Procedure shall be amended as follows, namely:—

A.—To section 440 of the said Code the following shall be added, namely:—

"If a minor has a guardian appointed or declared by an authority competent in this behalf, a suit shall not be instituted on behalf of the minor by any person other than such guardian except with the leave of the Court granted after notice to such guardian and after hearing any objections which he may desire to make with respect to the institution of the suit, and the Court shall not grant such leave unless it is of opinion that it is for the welfare of the minor that the person proposing

proposing to institute the suit in the name of the minor should be permitted to do so."

B. —To section 443 of the said Code the following shall be added, namely :—

"Where an authority competent in this behalf has appointed or declared a guardian or guardians of the person or property, or both, of the minor, the Court shall appoint him or one of them, as the case may be, to be the guardian for the suit under this section unless it considers, for reasons to be recorded by it, that some other person ought to be so appointed."

C.—After section 446 of the said Code the following shall be added, namely :—

"If the next friend is not a guardian appointed or declared by an authority competent in this behalf, and an application is made by a guardian so appointed or declared who desires to be himself appointed in the place of the next friend, the Court shall remove the next friend unless it considers, for reasons to be recorded by it, that the guardian ought not to be appointed the next friend of the minor."

D.—For section 461 of the said Code the following shall be substituted, namely :—

Receipt by next friend or guardian *ad litem* of property under decree for minor.

"461. (*1*) A next friend or guardian for the suit shall not, without the leave of the Court, receive any money or other moveable property on behalf of a minor, either—

(*a*) by way of compromise before decree or order, or

(*b*) under a decree or order in favour of the minor.

"(*2*) Where the next friend or guardian for the suit has not been appointed or declared by competent authority to be guardian of the property of the minor, or, having been so appointed or declared, is under any disability known to the Court to receive the money or other moveable property, the Court shall, if it grants him leave to receive the property, require such security and

and give such directions as will, in its opinion, sufficiently protect the property from waste and ensure its proper application."

E.—For section 464 of the said Code as amended by the Civil Procedure Code Amendment Act, 1888, the following shall be substituted, namely:— VII of 1888.

"464. Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or in any other name, or shall be construed to affect, or in any way derogate from, the provisions of any local law for the time being in force relating to suits by or against minors or by or against lunatics or other persons of unsound mind." Princes and Chiefs and wards of Court.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Title or subject.	Extent of repeal
	Acts of the Governor General in Council.	
XIV of 1858 .	Minors (Madras) . .	The whole.
XL of 1858 .	Minors (Bengal) . .	So much as has not been repealed.
IX of 1861 .	Minors	The whole.
XX of 1864 .	Minors (Bombay) . .	The whole.
XIV of 1869 .	Bombay Civil Courts Act, 1869.	So much of the last paragraph of section 16 as has not been repealed.
VII of 1870 .	Court-fees Act, 1870 . .	Section 19H, and article 10 of Schedule I.
IV of 1872 .	Punjab Laws Act, 1872 .	So far as it relates to Act XL of 1858.
XIX of 1873 .	North-Western Provinces Land-revenue Act, 1873.	Section 258.

(*The Schedule.—Enactments repealed.*)

Number and year.	Title or subject.	Extent of repeal.
	Acts of the Governor General in Council—contd.	
XIII of 1874 .	European British Minors Act, 1874.	The whole.
XV of 1874 .	Laws Local Extent Act, 1874.	So far as it relates to any enactment repealed by this Act.
XX of 1875 .	Central Provinces Laws Act, 1875.	So far as it relates to Act XL of 1858.
XVIII of 1876 .	Oudh Laws Act, 1876 .	So far as it relates to Act XL of 1858.
XIII of 1879 .	Oudh Civil Courts Act, 1869	Clause (*1*) of section 25 relating to proceedings under Acts XL of 1858 and IX of 1861.
XIV of 1882 .	Code of Civil Procedure .	The second paragraph of section 443.
XVIII of 1884 .	Punjab Courts Act, 1884 .	So much of section 29 as has not been repealed.
XVII of 1885 .	Central Provinces Government Wards Act, 1885.	Section 5.
XII of 1887 .	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Clause (*b*) of section 23, sub-section (*2*).
XI of 1889 .	Lower Burma Courts Act, 1889.	The words "to be and" in section 99, sub-section (*1*), and section 102, so far as it relates to Act XIII of 1874.
	Madras Regulations.	
V of 1804 .	Court of Wards . .	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards.
X of 1831 .	Minors' Estates . .	Section 3.
	Regulations under the Statute 33 Victoria, Chapter 3.	
IX of 1874 .	Arakan Hill District Laws .	So far as it relates to Acts XL of 1858 and IX of 1861.

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THE INDIAN RAILWAYS ACT, 1890.

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[*Price fifteen annas.*]

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ACT No. IX OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st March, 1890.

An Act to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title extent and commencement.

1. (*1*) This Act may be called the Indian Railways Act, 1890.

(*2*) It extends to the whole of British India, inclusive of Upper Burma and (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act, 1887) of British Baluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

XI of 1887.

(*3*) It shall come into force on the first day of May, 1890.

Repeal.

2. (*1*) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed

repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(*3*) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways: XI of 1886.

(*2*) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry;

(*3*) "inland water" means any canal, river, lake or navigable water in British India:

(*4*) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(*a*) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

(*b*) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway;

(*c*) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway; and

(*d*) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired

hired or worked by the authority administering the railway:

(*5*) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway:

(*6*) "railway administration" or "administration", in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company:

(*7*) "railway servant" means any person employed by a railway administration in connection with the service of a railway:

(*8*) "Inspector" means an Inspector of Railways appointed under this Act:

(*9*) "goods" includes inanimate things of every kind:

(*10*) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds:

(*11*) "traffic" includes rolling-stock of every description as well as passengers, animals and goods:

(*12*) "through traffic" means traffic which is carried over the railways of two or more railway administrations:

(*13*) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods:

(*14*) "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat:

(*15*) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorising the

the person to whom it is given to travel as a passenger on a railway gratuitously:

(*16*) "ticket" includes a single ticket, a return ticket and a season ticket:

(*17*) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy: and

(*18*) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

CHAPTER II.

INSPECTION OF RAILWAYS.

Appointment and duties of Inspectors.

4. (*1*) The Governor General in Council may appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(*2*) The duties of an Inspector of Railways shall be—

(*a*) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act;

(*b*) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct;

(*c*) to make inquiry under this Act into the cause of any accident on a railway;

(*d*) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

Powers of Inspectors.

5. An Inspector shall, for the purpose of any of the

the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor General in Council, shall for that purpose have the following powers, namely:— XLV of 1860.

(*a*) to enter upon and inspect any railway or any rolling-stock used thereon;

(*b*) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(*c*) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

Facilities to be afforded to Inspectors.

6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

CHAPTER III.

Construction and Maintenance of Works.

Authority of railway administrations to execute all necessary works.

7. (*1*) Subject to the provisions of this Act and, in the case of immoveable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and

and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

(*a*) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(*b*) alter the course of any rivers, brooks, streams or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or watercourses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(*d*) erect and construct such houses, warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;

(*e*) alter,

(*e*) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead; and

(*f*) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(*2*) The exercise of the powers conferred on a railway administration by sub-section (*1*) shall be subject to the control of the Governor General in Council.

Alteration of pipes, wires and drains.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain:

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(*b*) a local authority, company or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

9. (*1*) The

Temporary entry upon land for repairing or preventing accident.

9. (*1*) The Governor General in Council may authorise any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(*2*) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.

10. (*1*) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(*2*) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land-acquisition Act, 1870, and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation. X of 1870.

Accommodation works.

11. (*1*) A railway administration shall make and maintain the following works for the accommodation of

of the owners and occupiers of lands adjoining the railway, namely :—

(*a*) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(*b*) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(*2*) Subject to the other provisions of this Act, the works specified in clauses (*a*) and (*b*) of sub-section (*1*) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(*3*) The foregoing provisions of this section are subject to the following provisos, namely :—

(*a*) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation

compensation in consideration of their not requiring the works to be made;

(*b*) save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(*c*) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(*4*) The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (*1*), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation

accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Governor General in Council.

Fences, screens, gates and bars.

13. The Governor General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf,—

(*a*) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(*b*) any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway;

(*c*) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

(*d*) persons be employed by a railway administration to open and shut such gates, chains or bars.

Over and under bridges.

14. (*1*) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to

to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(*2*) The Governor General in Council may require, as a condition of making a requisition under sub-section (*1*), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

Removal of trees dangerous to or obstructing the working of a railway.

15. (*1*) In either of the following cases, namely:—

(*a*) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(*b*) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(*2*) In case of emergency the power mentioned in sub-section (*1*) may be exercised by a railway administration without the permission of a Magistrate.

(*3*) Where a tree felled or otherwise dealt with under sub-section (*1*) or sub-section (*2*) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(*4*) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision

revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(*5*) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

Opening of Railways.

Right to use locomotives.

16. (*1*) A railway administration may, with the previous sanction of the Governor General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(*2*) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

Notice of intended opening of a railway.

17. (*1*) Subject to the provisions of sub-section (*2*), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(*2*) The Governor General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (*1*).

Sanction of the Government a condition precedent to the opening of a railway.

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Procedure in sanctioning the opening of a railway.

19. (*1*) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway,

railway, reported in writing to the Governor General in Council—

(*a*) that he has made a careful inspection of the railway and rolling-stock;

(*b*) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed;

(*c*) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the Governor General in Council;

(*d*) that the railway is sufficiently supplied with rolling-stock;

(*e*) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act; and

(*f*) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(*2*) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(*3*) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(*4*) The

(*4*) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(*5*) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

Application of the provisions of the three last foregoing sections to material alterations of a railway.

20. (*1*) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (*2*) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(*2*) The works referred to in sub-section (*1*) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

Exceptional provision.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(*a*) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the

the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion; and

(*b*) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

Power to make rules with respect to the opening of railways.

22. The Governor General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to close an opened railway.

23. (*1*) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council; and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor General in Council may consider necessary for the safety of the public.

(*2*) An order under sub-section (*1*) must set forth the grounds on which it is founded.

Re-opening of a closed railway.

24. (*1*) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

(*2*) When the Governor General in Council has ordered under the last foregoing section that the use of

of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(*3*) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

Delegation of powers under this Chapter to Inspectors.

25. (*1*) The Governor General in Council may, by general or special order, authorise the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

(*2*) A condition imposed under sub-section (*1*) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V.

Railway Commissions and Traffic Facilities.

Railway Commissions.

Constitution of Railway Commission.

26. (*1*) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

(*2*) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

(*3*) The

(*3*) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand. X of 1882.

(*4*) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

Restriction of jurisdiction of Railway Commission to cases specially referred.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

Reference of cases to Railway Commission.

28. In any of the following circumstances, namely:—

(*a*) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter;

(*b*) where any difference which is under the provisions of any agreement required or authorised to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners;

(*c*) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises,

arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

Constitution of Railway Commission in session.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

Powers of Railway Commission.

30. (*1*) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

(*2*) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

(*3*) At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

Appeals from orders of Railway Commission.

31. (*1*) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(*2*) Subject to the provisions of sub-section (*1*), an appeal shall lie from an order of the Commissioners—

(*a*) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(*b*) in any other case, to the High Court of which the Law Commissioner was a member.

(*3*) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer

fewer than three, as the High Court may by rule prescribe.

(*4*) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made. XIV of 1882.

Operation of orders of Railway Commission.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

Assessors.

33. (*1*) The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(*2*) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

Power of the Governor General in Council to make rules for the purposes of this Chapter.

34. The Governor General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Costs of proceedings under this Chapter.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

Execution of

36. (*1*) The Court of which the Law Commissioner was

was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

order of Railway Commission and High Court.

(*2*) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (*1*) or to the Government.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Evidence of documents.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Submission to the Governor General in Council of special reports by Railway Commission.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Dissolution of Railway Commission.

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the

Governor

Governor General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.

40. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

41. Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Traffic Facilities.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

42. (*1*) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(*2*) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(*3*) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within

within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(*4*) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates:

Provided as follows:—

(*a*) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund;

(*b*) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are;

(*c*) if at the expiration of the prescribed period no such objection has been sent by any forwarding

forwarding railway administration, the rate shall come into operation at the expiration of that period;

(*d*) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;

(*e*) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable:

(*f*) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case;

(*g*) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

(*h*) the

(*h*) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route;

(*i*) subject to the foregoing provisions of this subsection, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;

(*j*) the prescribed period mentioned in this subsection shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

Undue preference in case of unequal rates for like traffic or services.

43. (*1*) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(*2*) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary

necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway.

44. Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

Terminals.

45. A railway administration may charge reasonable terminals.

Power of Railway Commission to fix terminals.

46. (*1*) The Governor General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(*2*) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

General rules.

47. (*1*) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in

in this behalf, shall make general rules consistent with this Act for the following purposes, namely:—

(*a*) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;

(*b*) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage;

(*c*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

(*d*) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;

(*e*) for regulating the conduct of the railway servants;

(*f*) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and,

(*g*) generally, for regulating the travelling upon, and the use, working and management of, the railway.

(*2*) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a rule made under clause (*e*) of sub-section (*1*), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(*3*) A rule made under this section shall not take effect until it has received the sanction of the Governor General

General in Council and been published in the Gazette of India:

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(*4*) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (*1*) to make rules thereunder may at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.

(*5*) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section. IV of 1879.

(*6*) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

Disposal of differences between railways regarding conduct of joint traffic.

48. Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may

may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

Agreements with the Governor General in Council for construction or lease of rolling-stock.

49. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

Powers of railway companies to enter into working agreements.

50. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time make with the Governor General in Council, and carry into effect, or, with the sanction of the Governor General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

(*a*) the working, use, management and maintenance of any railway ;

(*b*) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (*a*) and of officers and servants for the conduct of the traffic of the railway ;

(*c*) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance ;

(*d*) the interchange, accommodation and conveyance of traffic being on, coming from or intended for the respective railways of the contracting

contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;

(*e*) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on:

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are from time to time respectively authorised to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

Establishment of ferries and roadways for accommodation of traffic.

51. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may from time to time exercise with the sanction of the Governor General in Council all or any of the following powers, namely:—

(*a*) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry;

(*b*) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section;

(*c*) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;

(*d*) it may construct and maintain roads for the accommodation of traffic passing to or from its railway;

(*e*) it may provide and maintain any means of transport

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transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;

(*f*) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

Returns.

52. Every railway administration shall, in forms to be prescribed by the Governor General in Council, prepare, half-yearly or at such intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.

Carriage of Property.

Maximum load for wagons.

53. (*1*) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(*2*) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(*3*) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

Power for railway administrations to impose conditions for working traffic.

54. (*1*) Subject to the control of the Governor General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving,

receiving, forwarding or delivering of any animals or goods.

(*2*) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (*1*) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(*3*) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

Lien for rates, terminals and other charges.

55. (*1*) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(*2*) When any animals or goods have been detained under sub-section (*1*), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(*3*) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(*4*) If a person on whom a demand for any rate, terminal or other charge due from him has been made

fails

fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (*1*), or any animals or goods which have remained unsold after a sale under sub-section (*2*), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (*3*).

(*5*) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

Disposal of unclaimed things on a railway.

56. (*1*) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

(*2*) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

57. Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale-proceeds.

58. (*1*) The

Requisitions for written accounts of description of goods.

58. (*1*) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(*2*) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (*a*) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (*b*) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(*3*) If an account delivered under sub-section (*1*) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(*4*) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(*5*) If it appears from the examination that the description

description of the goods is different from that stated in an account delivered under sub-section (*1*), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(*6*) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (*1*), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

Dangerous or offensive goods.

59. (*1*) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(*2*) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(*3*) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in sub-section (*1*) having to his knowledge been given, may refuse to carry them or may stop their transit.

(*4*) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (*2*) has not to his knowledge been

been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(*5*) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (*1*), (*3*) and (*4*) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such. IV of 1884. XX of 1869.

Exhibition to the public of authority for quoted rates.

60. At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the rate is authorised by the administration or administrations concerned.

Requisitions on railway administrations for details of gross charges.

61. (*1*) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely :—

(*a*) the carriage of the goods on the railway;

(*b*) terminals;

(*c*) demurrage; and

(*d*) collection, delivery and other expenses;

but without particularising the several items of which the charge under each head consists.

(*2*) The application under sub-section (*1*) must be in writing and be made to the railway administration within

within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

62. The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved.

Communication between passengers and railway servants in charge of trains.

63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor General in Council, after consultation with the railway administration, may determine.

Maximum number of passengers for each compartment.

64. (*1*) On and after the first day of January, 1891, every railway administration shall in every train carrying passengers reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

Reservation of compartments for females.

(*2*) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time

Exhibition of time-tables and tables of fares at stations.

time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

Supply of tickets on payment of fares.

66. (*1*) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(*2*) The matters required by sub-section (*1*) to be specified on a ticket shall be set forth—

(*a*) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

67. (*1*) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

(*2*) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(*3*) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

Prohibition against travelling without pass or ticket.

68. No person shall, without the permission of a railway servant, enter any carriage on a railway for the

the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

Exhibition and surrender of passes and tickets.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

Return and season tickets.

70. A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Power to refuse to carry persons suffering from infectious or contagious disorder.

71. (*1*) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (*1*), clause (*d*), a person suffering from any infectious or contagious disorder.

(*2*) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(*3*) A railway servant giving such permission as is mentioned in sub-section (*2*) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

Responsibility of Railway Administrations as Carriers.

Measure of the general responsibility

72. (*1*) The responsibility of a railway administration for the loss, destruction or deterioration of animals

of a railway administration as a carrier of animals and goods.

animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872. IX of 1872.

(*2*) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(*a*) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(*b*) is otherwise in a form approved by the Governor General in Council.

(*3*) Nothing in the common law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration. III of 1865.

Further provision with respect to the liability of a railway administration as a carrier of animals.

73. (*1*) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of camels or horned cattle, fifty rupees a head or, in the case of sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(*2*) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(*3*) In every proceeding against a railway administration

administration for the recovery of compensation for the loss, destruction or deterioration of any animal the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

75. (*1*) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(*2*) When any parcel or package of which the value has been declared under sub-section (*1*) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(*3*) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorised in this behalf has been satisfied by

by examination or otherwise that the parcel actually contains the article declared to be therein.

Burden of proof in suits in respect of loss of animals or goods.

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Notification of claims to refunds of overcharges and to compensation for losses.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Exoneration from responsibility in case of goods falsely described.

78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (*1*) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Settlement of compensation for injuries to officers, soldiers and followers on duty.

79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there

there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

Suits for compensation for injury to through-booked traffic.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.

81. Where a railway administration under contract to carry animals or goods by any inland water procures the same to be carried in a vessel which is not a railway as defined in this Act, the responsibility of the railway administration for the loss, destruction or deterioration of the animals or goods during their carriage in the vessel shall be the same as if the vessel were such a railway.

Limitation of liability of railway administration in respect of accidents at sea.

82. (*1*) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of

of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

17 & 18 Vict., c. 104. 25 & 26 Vict., c. 63.

(*2*) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (*1*) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

Report of railway accidents.

83. When any of the following accidents occurs in the course of working a railway, namely :—

(*a*) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property; XLV of 1860.

(*b*) any collision between trains of which one is a train carrying passengers;

(*c*) the derailment of any train carrying passengers, or of any part of such a train;

(*d*) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;

(*e*) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India;

the

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf.

Power to make rules regarding notices of and inquiries into accidents.

84. The Governor General in Council may make rules, consistent with this Act and any other enactment for the time being in force, for all or any of the following purposes, namely:—

(*a*) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain;

(*b*) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;

(*c*) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

Submission of return of accidents.

85. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor General in Council directs.

Provision for compulsory medical

86. Whenever any person injured by an accident on a railway claims compensation on account of the injury,

examination of person injured in railway accident.

injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

Penalty for default in compliance with requisition under section 13.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

Penalty for contravention of section 16, 18, 19, 20, 21 or 24.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (*2*), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or reopens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54 or 65.

89. If a railway company fails to comply with the provisions of section 47, sub-section (*6*), section 54, sub-section (*2*), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

90. If

90. If a railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

91. If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for failure to comply with decision under section 48.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for delay in submitting returns under section 52 or 85.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

94. If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it, which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.

95. If

Penalty for failure to reserve compartments for females under section 64

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

Recovery of penalties

97. (*1*) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(*2*) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(*3*) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

Breach of duty imposed by section 60.

99. If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully

wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

Drunkenness.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both.

Endangering the safety of persons.

101. If a railway servant, when on duty, endangers the safety of any person—

(*a*) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(*b*) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Compelling passengers to enter carriages already full.

102. If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

Omission to give notice of accident.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

104. If

Obstructing level-crossings.

104. If a railway servant unnecessarily—

(*a*) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(*b*) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

False returns.

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

Giving false account of goods.

106. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway.

107. If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

Needlessly interfering with means of communication in a train.

108. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

109. (*1*) If

109. (*1*) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

Entering compartment reserved or already full or resisting entry into a compartment not full.

(*2*) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (*1*) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

Smoking.

(*2*) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (*1*), be removed by any railway servant from the carriage in which he is travelling.

111. If a person, without authority in this behalf, pulls down or wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Defacing public notices.

112. If a person, with intent to defraud a railway administration,—

Fraudulently travelling or attempting to travel without proper pass or ticket.

(*a*) enters in contravention of section 68 any carriage on a railway, or

(*b*) uses

(*b*) uses or attemps to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

Travelling without pass or ticket or with insufficient pass or ticket or beyond authorised distance.

113. (*1*) If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(*2*) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorised by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(*3*) The

(*3*) The excess charge referred to in sub-section (*1*) and sub-section (*2*) shall,—

(*a*) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

(*b*) in any other case, be six rupees, one rupee or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind:

Provided that such excess charge shall in no case exceed,—

(*a*) where the liability to pay it arises under sub-section (*1*), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or

(*b*) where such liability arises under sub-section (*2*), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(*4*) If a passenger liable to pay the excess charge and fare mentioned in sub-section (*1*), or the excess charge and any difference of fare mentioned in sub-section (*2*), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the

passenger

passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

Transferring return half of return ticket.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of, the return half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for the return journey authorised by the ticket.

Disposal of fines under the two last foregoing sections.

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

Altering or defacing pass or ticket.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

Being or suffering person to travel on railway with infectious or contagious disorder.

117. (*1*) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (*2*), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(*2*) If any such railway servant as is referred to in section 71, sub-section (*2*), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers,

passengers, he shall be punished with fine which may extend to one hundred rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway.

118. (*1*) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(*2*) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

Entering carriage or other place reserved for females.

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness or nuisance on a railway.

120. If a person in any railway carriage or upon any part of a railway—

(*a*) is in a state of intoxication, or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(*c*) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Obstructing railway servant in his duty.

121. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

Trespass and refusal to desist from trespass.

122. (*1*) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

(*2*) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

Disobedience of omnibus drivers to directions of railway servants.

123. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

Opening or not properly shutting gates.

124. In either of the following cases, namely:—

(*a*) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,

(*b*) if, in the absence of a gatekeeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

125. (*1*) The

Cattle-trespass.

125. (*1*) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

I of 1871.

(*2*) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(*3*) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(*4*) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(*5*) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

Maliciously wrecking or attempting to wreck a train.

126. If a person unlawfully—

(*a*) puts or throws upon or across any railway any wood, stone or other matter or thing, or

(*b*) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or

(*c*) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or

(*d*) makes

(*d*) makes or shows, or hides or removes, any signal or light upon or near to any railway, or

(*e*) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

Maliciously hurting or attempting to hurt persons travelling by railway.

127. If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

Endangering safety of persons travelling by railway by wilful act or omission.

128. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

130. (*1*) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct XLV of 1860.

direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(*2*) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(*3*) If a father or guardian fails to execute a bond under sub-section (*1*) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

Arrest for offences against certain sections.

131. (*1*) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in section 130, sub-section (*1*), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(*2*) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

Arrest of persons likely to abscond or unknown.

132. (*1*) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(*2*) The person arrested shall be released on his giving

giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(*3*) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(*4*) The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section. X of 1882.

Magistrates having jurisdiction under Act.

133. No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

134. (*1*) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(*2*) Every notification under sub-section (*1*) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Taxation of railways by local authorities.

135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway

railway administrations in aid of the funds of local authorities, namely:—

(*1*) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.

(*2*) While a notification of the Governor General in Council under clause (*1*) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(*3*) The Governor General in Council may at any time revoke or vary a notification under clause (*1*) of this section.

(*4*) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(*5*) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

I of 1887.

Restriction on execution against railway property.

136. (*1*) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree

decree or order of any Court without the previous sanction of the Governor General in Council.

(*2*) Nothing in sub-section (*1*) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.

137. (*1*) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code. XLV of 1860.

(*2*) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (*1*), be deemed to include any employer of a railway servant as such.

(*3*) A railway servant shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,

(*b*) in contravention of any direction of the railway administration in this behalf, engage in trade.

(*4*) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (*1*).

Procedure for summary delivery to railway administration of property detained by a railway servant.

138. If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as a foresaid, any Magistrate

Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

Mode of signifying communications from the Governor General in Council.

139. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorised to act on behalf of the Governor General in Council in respect of the matters to which the same may relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Service of notices on railway administrations.

140. Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(*a*) by delivering the notice or other document to the Manager or Agent, or

(*b*) by leaving it at his office, or

(*c*) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

141. Any

Service of notices by railway administrations.

141. Any notice or other document required or authorised by this Act to be served on any person by a railway administration may be served—

(*a*) by delivering it to the person, or

(*b*) by leaving it at the usual or last known place of abode of the person, or

(*c*) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866. XIV of 1866.

Presumption where notice is served by post.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Provisions with respect to rules.

143. (*1*) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (*4*), shall not take effect until it has been published in the Gazette of India.

(*2*) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(*3*) The Governor General in Council may cancel or vary any rule made by him under this Act.

Delegation of powers of Governor General in Council.

144. (*1*) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway,

railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(*2*) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (*1*).

Representation of Managers and Agents of Railways in Courts.

145. (*1*) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorise any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(*2*) A person authorised by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate.

X of 1882.

Power to extend Act to steam-tramways.

146. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

Power to exempt railways from Act.

147. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

Matters supplemental to the definitions of "railway" and "railway servant".

148. (*1*) For the purposes of section 3, clauses (*5*), (*6*) and (*7*), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive),

inclusive), 140, 141, 144, 145 and 147, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (*4*).

(*2*) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (*1*), (*2*) and (*4*), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

Amendment of the Indian Penal Code.

149. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted. XLV of 1860.

Amendment of the Sindh-Pishin Railway Act, 1887.

150. For that portion of the preamble to the Sindh-Pishin Railway Act, 1887, which begins with the words "so far as it applies" and ends with the words "in its entirety", the words "should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh" shall be substituted. XI of 1887.

THE FIRST

THE FIRST SCHEDULE.

* ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Title.	Extent of repeal.
	Acts of the Governor General in Council.	
III of 1865 .	Carriers Act, 1865 . .	Section 7 (so far as it relates to railways) and section 10.
IV of 1879 .	Indian Railway Act, 1879 .	The whole.
IV of 1883 .	Indian Railway Act, 1883 .	The whole.
XI of 1886 .	Indian Tramways Act, 1886 .	Section 49.
XX of 1886 .	Upper Burma Laws Act, 1886 .	So much as relates to Acts IV of 1879 and IV of 1883.
	Act of the Lieutenant-Governor of Bengal in Council.	
II of 1882 .	Bengal Embankment Act, 1882	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the section last preceding" and the words "or railroad" wherever they occur.

THE SECOND

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(*See section 75.*)

(*a*) gold and silver, coined or uncoined, manufactured or unmanufactured;
(*b*) plated articles;
(*c*) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform; XX of 1869.
(*d*) pearls, precious stones, jewellery and trinkets;
(*e*) watches, clocks and timepieces of any description;
(*f*) Government securities;
(*g*) Government stamps;
(*h*) bills of exchange, hundis, promissory-notes, bank-notes, and orders or other securities for payment of money;
(*i*) maps, writings and title-deeds;
(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;
(*k*) art pottery and all articles made of glass, china or marble;
(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
(*m*) shawls;
(*n*) lace and furs;
(*o*) opium;
(*p*) ivory, ebony, coral and sandalwood;
(*q*) musk, sandalwood-oil and other essential oils used in the preparation of *itr* or other perfume;
(*r*) musical and scientific instruments;
(*s*) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule.

Govt. of India Central Printing Office.—No 105 L, D.—19-6-90.—500.—A. E. de'S.

BENGAL SECRETARIAT LIBRARY

ACT No. X of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 21st March, 1890.*)

An Act to amend Act XXV of 1867.

WHEREAS it is expedient to amend Act XXV of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows:—

1. In the preamble to the said Act the word "three" is hereby repealed.

Repeal of part of preamble to Act XXV, 1867.

2. In section 1 of the said Act, in the definition of the word "Magistrate", the words "and a Justice of the Peace" are hereby repealed.

Repeal of part of section 1, Act XXV, 1867.

3. In section 6 of the said Act, for the words "other Court within the local limits of whose ordinary original civil jurisdiction" the words "other principal Civil Court of original jurisdiction for the place where" shall be substituted.

Amendment of section 6, Act XXV, 1867.

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely:—

Substitution of new Part for Part III, Act XXV, 1867.

"PART III.

"DELIVERY OF BOOKS.

"9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between

Copies of books printed after commencement of Act to be delivered gratis to Government.

[*Price one anna and nine pies.*]

between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

(*a*) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,

(*b*) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

"The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

"Nothing in the former part of this section shall apply to—

(*i*) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or

(*ii*) any periodical work published in conformity with the rules laid down in section 5 of this Act.

"10. The

"10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Receipt for copies delivered under last foregoing section.

"11. The copy delivered pursuant to clause (*a*) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

Disposal of copies delivered under section 9.

"Any copy or copies delivered pursuant to clause (*b*) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be."

5. For sections 16 and 17 of the said Act the following shall be substituted, namely:—

Substitution of new sections for sections 16 and 17, Act XXV, 1867.

"16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

Penalty for not delivering books or not supplying printer with maps.

"If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such

a Magistrate

a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

Recovery of forfeitures and disposal thereof and of fines.

"17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorised by the Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

X of 1882.

XLV of 1860.

"All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct."

Amendment of section 18, Act XXV, 1867.

6. In section 18 of the said Act, there shall be substituted for the words and figure "pursuant to section 9" the words, letter and figure "pursuant to clause (*a*) of the first paragraph of section 9", and for the words "copies thereof in manner aforesaid" the words, letter and figure "copy thereof pursuant to clause (*a*) of the first paragraph of section 9".

Repeal of section 22, Act XXV, 1867.

7. Section 22 of the said Act is hereby repealed.

Government of India Central Printing Office.—No. 106 L. D.—21-4-90.—4,400.—A. McL.

ACT No. XI of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st March, 1890.)

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows:—

Title, extent and commencement, and supersession of other enactments.

1. (*1*) This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(*2*) This section extends to the whole of British India: and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

(*3*) When any part of this Act has been extended under sub-section (*2*) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government, by a like notification, otherwise directs.

(*4*) The Local Government may cancel or vary a notification under sub-section (*2*) or sub-section (*3*).

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "animal" means any domestic or captured animal: and

(*2*) "street"

[*Price one anna and nine pies.*]

(*2*) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

(*a*) cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

(*b*) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(*c*) offers, exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for practising phúká.

4. If any person performs upon any cow the operation called phúká, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty for killing animals with unnecessary cruelty anywhere.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for employing anywhere animals unfit for labour.

6. (*1*) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

(*2*) The

(*2*) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (*1*) have been committed.

(*3*) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(*4*) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe.

(*5*) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(*6*) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

Penalty for permitting diseased animals to go at large or to die in public places.

7. If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees.

Search-warrants.

8. (*1*) If a Magistrate of the first class, Subdivisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4,

section

section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any police-officer above the rank of a constable to enter and search the place.

(*2*) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (*1*). X of 1882.

Limitation for prosecutions.

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Destruction of suffering animals.

10. When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper.

Saving with respect to religious rites and usages.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

Provision supplementary to section 1 with respect to extent of Act.

12. Notwithstanding anything in section 1, sections 9, 10 and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

Government of India Central Printing Office.—No. 107 L D.—21-4-90.—4,400.—A. McL.

ACT No. XII OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st March, 1890.

An Act to amend the Indian Tariff Act, 1882.

XI of 1882. WHEREAS it is expedient to amend the Indian Tariff Act, 1882; It is hereby enacted as follows:—

XI of 1882. 1. In No. 2 of the Second Schedule to the Indian Tariff Act, 1882, as amended by Act II of 1887 (*an Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882*)— Amendment of Second Schedule, Act XI, 1882.

(*a*) "Rs. 6" shall be substituted for "Rs. 5" in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of "Liqueurs," and

(*b*) for the following, namely:—

No.	Names of Articles.	Per	Tariff Valuation.	Rate of Duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Imperial Gallon or six quart bottles.	...	Rs. 7-8.
	Spirit, other sorts.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

there

[*Price one anna and three pies.*]

there shall be substituted the following, namely :—

No.	Names of Articles.	Per	Tariff Valuation.	Rate of Duty.
*	*	*	*	*
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial Gallon or six quart bottles of the strength of London proof	...	Rs. 6, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Imperial Gallon or six quart bottles.	...	Rs. 8.
	Spirit, other sorts.	Imperial Gallon or six quart bottles of the strength of London proof.	...	Rs. 6, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

Government of India Central Printing Office —No 108 L. D.—17-4-90 —4,400.—A. McL.

ACT No. XIII of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 28th March, 1890.)

An Act to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting Spirit.

XXII of 1881. Ben. VII of 1878. VIII of 1878.

WHEREAS it is expedient to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Excise (Malt Liquors) Act, 1890; and

(*2*) It shall come into force at once.

Excise Act, 1881.

XXII of 1881.

Insertion of new section after section 7, Act XXII, 1881.

2. After section 7 of the Excise Act, 1881, the following shall be inserted, namely:—

Duty on fermented liquor.

"7A. No fermented liquor shall be removed from a brewery licensed under section 5 until—

(*a*) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1882, on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

XI of 1882.

(*b*) a bond for such duty has been executed."

3. For

[*Price one anna and six pies.*]

Substitution of new section for section 8, Act XXII, 1881.

3. For section 8 of the said Act the following shall be substituted, namely :—

Power to make rules as to distilleries and breweries licensed under section 5.

"8. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the granting of licenses for distilleries, stills and breweries under section 5;

(*b*) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery;

(*d*) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes;

(*e*) the inspection and examination of such distillery or brewery and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein;

(*f*) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting and other vessels in such brewery."

Addition to section 23 (*2*), Act XXII, 1881.

4. To sub-section (*2*) of section 23 of the said Act, as amended by Act II of 1887, the following shall be added, namely :—

"or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (*a*) of section 7A, may from time to time prescribe."

Amendment of clause (*b*) of section 36, Act XXII, 1881.

5. In clause (*b*) of section 36 of the said Act the words, figure and letter "or section 7A" shall be inserted after the word and figure "section 7", and the words

words "or any fermented liquor from a brewery" after the word "distillery".

Bengal Excise Act, 1878.

Ben. VII of 1878.

6. In section 18 of the Bengal Excise Act, 1878, as amended by the Act of the Governor General in Council No. IX of 1885, the words "or fermented" shall be inserted after the word "spirituous", wherever that word occurs, and the words "or brewery" after the word "distillery".

Amendment of section 18, Bengal Act VII, 1878.

7. In section 19 of the said Act as amended by the Act of the Lieutenant-Governor of Bengal in Council No. IV of 1881, the words "or fermented" shall be inserted after the word "spirituous" in both the places where that word occurs.

Amendment of section 19, Bengal Act VII, 1878.

8. Nothing in either of the two last foregoing sections shall affect any Act passed by the Lieutenant-Governor of Bengal in Council after the commencement of this Act.

Effect of two last foregoing sections on legislative authority of Bengal Council.

Drawback of Excise-duty on Export of Malt Liquor.

VIII of 1878.

9. The provisions of section 150 of the Sea Customs Act, 1878, with respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported and to the drawback of the excise-duty paid on such liquor.

Application of provisions of section 150, Act VIII, 1878, to malt liquor.

Government of India Central Printing Office.—No. 135 L. D.—21-4-90.—4,400.—A. E. deS.

ACT No. XIV of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 31st July, 1890.*)

An Act to amend the Schedule to the Petroleum Act, 1886.

WHEREAS it is expedient to amend parts of the fourth paragraph (*Application of the test*) of Part III of the schedule to the Petroleum Act, 1886; It is hereby enacted as follows:—

XII of 1886.

Amendment of schedule to Act XII of 1886.

1. For the third and fourth clauses of the said paragraph commencing respectively with the words "If the flash takes place at any temperature below 77° Fahrenheit" and "No flash which takes place within eight degrees of the temperature at which the testing is commenced," the following shall be substituted, namely:—

"If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant

[*Price one anna and three pies.*]

concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

"If, however, a flash has occurred at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°, and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47° and the sample shall be reported dangerous."

Government of India Central Printing Office.—No. 183 L. D.—18-8-90.—4,400.—Jos. D'C.

ACT No. XV of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th August, 1890.)

An Act to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to authorise an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency; It is hereby enacted as follows:—

Amendment of section 19, Act XX, 1882.

XX of 1882.

1. Section 19 of the Indian Paper Currency Act, 1882, shall be read as if for the words "sixty millions" the words "eighty millions" were substituted.

[*Price one anna.*]

Government of India Central Printing Office—No. 203 L. D.—9-9 90.—4,400.—Jos D'C.

ACT No. XVI OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 11th September, 1890.)

An Act to amend the Births, Deaths and Marriages Registration Act, 1886.

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows:— VI of 1886.

1. In section 32 of the said Act, for the words "within one year from the date on which this Act comes into force," the words "at any time before the first day of April, 1891," shall be substituted. Amendment of section 32, Act VI, 1886.

2. The following section shall be added to Chapter V of the said Act, namely:— Addition of new section 35A, Act VI, 1886.

"35A. (*1*) The Governor General in Council, if he thinks fit, may, by notification in the Gazette of India, appoint more commissions than one for the purposes of this Chapter, each such commission consisting of so many and such members as he may, by a like notification, nominate thereto by name or by office, and having its functions restricted to the disposal, under this Act and the rules thereunder, of the registers or records sent under section 32 to such Registrar General or Registrars General as the Governor General in Council may, by a like notification, specify in this behalf. Constitution of additional commissions for purposes of this Chapter.

"(*2*) If more commissions than one are appointed in exercise of the power conferred by sub-section (*1*), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed."

[*Price one anna.*]

Government of India Central Printing Office.—No. 208 L. D.—27-9-90.—4,400.—Jos. D'C.

ACT No. XVII OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 16th October, 1890.*)

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1891, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Indian Census Act, 1890.

(*2*) It extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(*3*) It shall come into force at once.

Appointment of census-officers.

2. (*1*) The Local Government may appoint any person, by name or by office, to take, or aid in or supervise the taking of, the census within any specified local area.

(*2*) Persons so appointed shall be called census-officers.

(*3*) The Local Government may delegate to such authority as it thinks fit the power of appointing census-officers which is conferred by this section.

Proof of appointment of census-officers, and their status as public servants.

3. (*1*) A declaration in writing, signed by any officer authorised by the Local Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(*2*) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

4. (*1*) (*a*) Every

[*Price two annas.*]

Discharge of duties of census-officers in certain cases.

4. (*1*) (*a*) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(*b*) every person (except a pilot or harbour-master) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(*d*) every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(*e*) every occupant of immoveable property having at the time of the taking of the census not less than fifty persons employed under him, or living, on or in such property,

shall, if so required by the District Magistrate, or by such officer as the Local Government may appoint in this behalf by name or by office, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such property, as such Magistrate or officer may, by written order, direct.

(*2*) All the provisions of this Act relating to census-officers shall apply, so far as they can be made applicable, to all such persons while performing such duties, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code. XLV of 1860.

Power of District Magistrate to call upon certain persons to give assistance.

5. (*1*) The District Magistrate, or such officer as the Local Government may appoint in this behalf by name or by office for any local area, may, by written order, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, VII of 1875. 1875, or the Upper Burma Land and Revenue Regulation, 1889, in his district or in such local area, as the III of 1889. case may be, or their agents, upon village-servants in permanently-settled estates in the Madras Presidency, and

VI (B. C.) of 1870. V (B. C.) of 1887. I of 1883.

and upon all members of panchayats appointed in his district or in such local area under the Village Chaukidari Act, 1870 (Bengal), or the Chota Nagpore Rural Police Act, 1887, or the Silhat and Kachar Rural Police Regulation, 1883, to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages for which such village-servants or panchayats are appointed, as the case may be.

(*2*) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and such village-servants and the members of such panchayats, shall be bound to obey it.

Asking of questions by census-officers.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

Occupier to allow access, and permit affixing of numbers.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier to fill up schedule.

9. (*1*) Subject to such orders as the Local Government may issue in this behalf, any census-officer

may

may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

(*2*) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

Penalties.

10. In any of the following cases, namely :—

(*a*) if a census-officer without sufficient cause refuses or neglects to act as such,

(*b*) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,

(*c*) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,

(*d*) if any person occupying any house, enclosure, vessel or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,

(*e*) if any person removes, obliterates, alters or injures before the thirty-first day of March, 1891, any letters, marks or numbers which have been painted or affixed for the purposes of the census,

(*f*) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

he

he shall be punished with fine which may extend to fifty rupees.

Jurisdiction in prosecutions.

11. (*1*) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(*2*) Unless and until a notification is published under sub-section (*1*), all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

(*3*) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government, or with the previous sanction of some officer authorised by the Local Government in this behalf by name or by office.

Records of census not admissible in evidence in certain proceedings.

I of 1872.

12. Notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any book, register or record made by a census-officer in the discharge of his duty as such officer, and no entry in a schedule delivered under section 9, shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1882.

X of 1882.

Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1891, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

Government of India Central Printing Office.—No. 294 L. D.—5-11-90.—4,400.—Jos D'C.

ACT No. XVIII of 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 16th October, 1890.*)

An Act to amend the Indian Emigration Act, 1883.

XXI of 1883.

WHEREAS it is expedient to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

Correction of section 31, Act XXI, 1883.

1. In section 31 of the said Act, after the word "mistake" the word "and" shall be inserted.

Amendment of, and addition to, section 35, Act XXI, 1883.

2. (*1*) In section 35, sub-section (*1*), of the said Act, the words "in duplicate" shall be substituted for the words "in triplicate" in both places where the latter words occur.

(*2*) To the same section the following sub-section shall be added, namely:—

"(*4*) Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument."

Substitution of new section for section 37, Act XXI, 1883.

3. For section 37 of the said Act the following shall be substituted, namely:—

Record of registrations and agreements.

"37. When the agreement has been executed and attested—

(*a*) one of the copies thereof shall be delivered to

[*Price one anna and six pies.*]

to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and

(*b*) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent."

Amendment of section 49, Act XXI, 1883.

4. There shall be substituted in sub-section (*1*) of section 49 of the said Act, for the word "agreement" the words and figures "particulars registered under section 31," and in sub-section (*2*) of the same section for the word "agreement" the words "said copy".

Addition of proviso to section 56 (*1*), Act XXI, 1883.

5. To sub-section (*1*) of section 56 of the said Act the following proviso shall be added, namely :—

"Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884, and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient." VII of 1884.

Repeal of section 70, Act XXI, 1883.

6. Section 70 of the said Act is hereby repealed.

Substitution of new section for section 102, Act XXI, 1883.

7. For section 102 of the said Act as amended by Act XXI of 1884 the following shall be substituted, namely :—

Provision supplementary to section 6 (*1*) of this Act.

"102. (*1*) On and from such a date as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements,

Settlements, or with respect to any British colony or possession for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labour for hire in any such State, colony or possession shall not, so long as the notification continues to apply to the State, colony or possession, be deemed to emigrate within the meaning of this Act.

(*2*) The Governor General in Council may, by notification in the Gazette of India, declare that from a date to be specified a notification under sub-section (*1*) shall no longer apply to a Native State or British colony or possession therein mentioned."

Saving of notifications under section 102, Act XXI, 1883, as amended by Act XXI, 1884.

8. Every notification made under section 102 of the said Act as amended by Act XXI of 1884 shall be deemed to have been made under sub-section (*1*) of section 102 of the said Act as amended by the last foregoing section of this Act.

Amendment of section 105, Act XXI, 1883.

9. In section 105 of the said Act, for the word and figures "section 102" the words, figures and letter "section 103, clause (*a*), and section 104" shall be substituted.

Government of India Central Printing Office.—No. 295 L. D.—5-11-90.—4,400.—Jos. D'C.

BENGAL SECRETARIAT LIBRARY

ACT No. XIX OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th October, 1890.)

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to amend the Indian Salt Act, 1882, for the purpose of regulating the traffic in Kohat salt in the Punjab; It is hereby enacted as follows :—

XII of 1882.

XII of 1882.

1. To section 3 of the Indian Salt Act, 1882, the following shall be added, namely :—

Addition to section 3, Act XII, 1882.

" 'Kohat salt' means salt produced in the district of Kohat in the Punjab."

Kohat salt.

2. After Chapter III of the said Act the following shall be inserted, namely :—

Insertion of new Chapter IIIA after Chapter III, Act XII, 1882.

" CHAPTER IIIA.

INDUS PREVENTIVE LINE.

8A. (*1*) The Governor General in Council may, from time to time, by rule,—

Power to define zones and establish chains of posts.

(*a*) define a zone of country not exceeding fifteen miles in breadth—

(*i*) along any portion of the river Indus and at such distance therefrom as he deems expedient, or

(*ii*) in any tract extending from that river to the western frontier of the Punjab,

(*b*) extend any such zone so as to include any ferry, or any portion of a railway, canal or navigable river entering the zone, or any place.

[*Price one anna and six pies.*]

place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and

(*c*) within such a zone establish a chain of posts extending along the zone.

(*2*) The establishment of a chain of posts under clause (*c*) of sub-section (*1*) shall be deemed to be a public purpose within the meaning of the Land Acquisition Act, 1870. X of 1870.

Effect of defining a zone and establishing a chain of posts.

8B. When a zone has been defined and a chain of posts established under section 8A, the Governor General in Council may from time to time, by rule—

(*a*) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone, and,

(*b*) so far as may be necessary for the prevention of the smuggling of Kohat salt across the chain of posts, control and regulate the passage of traffic across such chain, and provide for the searching of all persons and things crossing or being taken across such chain."

Addition to section 25, Act XII, 1882.

3. The following shall be added to section 25 of the said Act, namely :—

"A Salt-revenue-officer shall not be deemed to search or detain any person, or to seize the moveable property of any person, vexatiously and unnecessarily within the meaning of clause (*b*) or clause (*c*) of the first paragraph of this section if the search is authorised by any rule under clause (*b*) of section 8B, and the detention or seizure is such as is necessary for the purposes of such search."

Addition to section 27, Act XII, 1882.

4. To section 27 of the said Act the following shall be added, namely :—

"Nothing in this section shall be deemed to affect Chapter IIIA of this Act or any rule under that Chapter."

And

Mad. VI of 1871.
Mad. IV of 1889.

And whereas the Madras Salt Excise Act, 1871, has been repealed by the Madras Salt Act, 1889, and section 31 of the Indian Salt Act, 1882, has become obsolete; It is hereby enacted as follows:—

ACT 1882.

1882. 5. Section 31 of the Indian Salt Act, 1882, is hereby repealed. Repeal of section 31, Act XII, 1882.

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THE NORTH-WESTERN PROVINCES AND OUDH ACT, 1890.

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[*Price six annas.*]

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ACT No. XX OF 1890.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th October, 1890.)

An Act to provide for the better administration of the North-Western Provinces and Oudh and to amend certain enactments in force in those Provinces and in Oudh.

WHEREAS it is expedient to provide for the better administration of the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, and for that purpose to amend certain enactments which are in force in the said Provinces and in Oudh; It is hereby enacted as follows:—

1. This Act may be called the North-Western Provinces and Oudh Act, 1890. Title.

PART I.

THE NORTH-WESTERN PROVINCES.

2. This Part shall come into force on such day as the said Lieutenant-Governor may, by notification in the official Gazette, direct. Commencement of Part I.

3. After section 9 of the North-Western Provinces Land-revenue Act, 1873, the following shall be inserted, namely:— XIX of 1873. New section inserted after section 9, Act XIX of 1873.

"9A. The Board may transfer any case or class of cases from any Revenue Court to any other Revenue Court competent in respect of the case or class of cases to deal therewith." Power for Board to transfer cases.

4. For

New section substituted for section 14, Act XIX of 1873. Power to create, alter and abolish divisions, districts, tahsils and sub-divisions.

4. For section 14 of the North-Western Provinces Land-revenue Act, 1873, the following shall be substituted, namely :— XIX of 1873.

"14. (*1*) The Local Government may from time to time create new, or abolish existing, tahsils, and alter the limits of any division, district or tahsil, and may divide any district into sub-divisions, and from time to time alter the limits of the sub-divisions, and may from time to time, with the previous sanction of the Governor General in Council, create new, or abolish existing, divisions or districts.

(*2*) All existing tahsils shall be deemed to be sub-divisions of districts."

And whereas it has been determined to annex the Jhánsí Division, comprising the districts of Jhánsí, Jalaun and Lalatpur, to the Allahabad Division;

And whereas the said Jhánsí Division is a scheduled district under the Scheduled Districts Act, 1874; XIV of 1874.

And whereas it is expedient that the law in force in the said division should, on such annexation, be the same as the law in force in the temporarily-settled districts comprised in the Allahabad Division, and that the said division should cease to be a scheduled district;

It is hereby enacted as follows :—

Laws in force in certain districts of the Allahabad Division to apply to Jhánsí.

5. (*1*) All enactments which shall on the day when this Part comes into force be in force in the said temporarily-settled districts and not in the said Jhánsí Division shall be deemed to come into force in that division on and from the said day.

(*2*) Except the Jhánsí Encumbered Estates Act, 1882, and the Jhánsí and Morar Act, 1886, all enactments which shall on the said day be in force in the said division and not in the said temporarily-settled districts, including the Jhánsí Courts Act, 1867, and Act No. XXVII of 1867, shall be deemed to be repealed on and from the said day in the said division. XVI of 1882. XVII of 1886. XVIII of 1867.

6. (*1*) In

XVI of 1882

Amendment of Act XVI of 1882.

6. (*1*) In the preamble and in section 3 of the Jhánsí Encumbered Estates Act, 1882, for the words "the Jhánsí Division" there shall be substituted the words "the territory now comprised in the districts of Jhánsí, Jalaun and Lalatpur"; for the words "the Commissioner of the Jhánsí Division", wherever they occur, there shall be substituted the words "the Commissioner of the Allahabad Division"; and for the words "the Deputy Commissioner", wherever they occur, the words "the Collector" shall be substituted.

(*2*) All proceedings pending on the said day under the said Act before the Commissioner of the Jhánsí Division shall be disposed of by the Commissioner of the Allahabad Division.

XVII of 1886.

XII of 1887.

Discharge of functions assigned to Deputy Commissioner and Commissioner by Act XVII of 1886.

7. The functions assigned to the Deputy Commissioner and the Commissioner by the Jhánsí and Morar Act, 1886, shall be discharged by the District Judge and the High Court respectively, and references to Courts in the Jhánsí District subordinate to the Commissioner shall be deemed to apply to the Civil Courts established in that district under the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

XIV of 1874.

XV of 1874.

Jhánsí Division to cease to be a scheduled district.

8. (*1*) On and from the said day the said dixision shall cease to be a scheduled district; and in Part IV of the first schedule to the Scheduled Districts Act, 1874, and in Part IV of the sixth schedule to the Laws Local Extent Act, 1874, the words "the Jhánsí Division, comprising the Districts of Jhánsí, Jalaun and Lalatpur," shall be repealed.

XVII of 1886.

(*2*) Section 4 of the Jhánsí and Morar Act, 1886, and the last paragraph of the preamble to Part I of that Act, ending with the words "the Jhánsí District", shall also be repealed.

XII of 1887.

Application of Act XII of 1887 to Jhánsí and disposal of pending cases.

9. (*1*) In section 1, sub-section (*2*), of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, the words "and except the Jhánsí Division" shall be repealed.

(*2*) All

(*2*) All cases or proceedings pending in any Civil Court in the said division on the said day shall be disposed of as follows:—

(*a*) if pending in the Court of a Tahsildar or of an Assistant Commissioner of the second class—by the Munsif;

(*b*) if pending in the Court of an Assistant Commissioner of the first class—by the Subordinate Judge;

(*c*) if pending in the Court of a Deputy Commissioner—by the District Judge;

(*d*) if pending in the Court of the Commissioner—by the District Judge, unless the case pending is an appeal from a decree or order of the Deputy Commissioner, in which case the appeal shall be disposed of by the High Court.

(*3*) For the purposes of sections 20 to 22, both inclusive, of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, all decrees and orders passed by Civil Courts in the said division and not appealed against before the said day shall be deemed— XII of 1887.

(*a*) if passed by the Court of a Tahsildar or an Assistant Commissioner of the second class—to have been passed by a Munsif;

(*b*) if passed by the Court of an Assistant Commissioner of the first class—to have been passed by a Subordinate Judge;

(*c*) if passed by the Court of a Deputy Commissioner or the Commissioner—to have been passed by a District Judge.

(*4*) Where any Civil Court ceases by reason of the passing of this Act to have jurisdiction with respect to any case, any proceeding in relation to that case, which, if that Court had not ceased to have jurisdiction,

tion, might have been had therein, may be had in the Court to which the business of the former Court is transferred by sub-section (*2*); but this sub-section shall not apply to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure.

XIV of 1882.

(*5*) In the case of appeals from the decrees and orders mentioned in sub-section (*3*) the period of limitation shall be calculated in accordance with the provisions of section 15 of the Jhánsí Courts Act, 1867, as though this Act had not been passed.

XVIII of 1867.

PART II.

Oudh.

10. This Part shall come into force on such day as the Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Commencement of Part II.

11. (*1*) On and from the day on which this Part comes into force the Board of Revenue constituted under the North-Western Provinces Land-revenue Act, 1873, shall be deemed to be also the Board of Revenue for the territories administered by the Chief Commissioner of Oudh, and shall be known and designated as the Board of Revenue of the North-Western Provinces and Oudh.

XIX of 1873.

Board of Revenue of the North-Western Provinces to be the Board of Revenue of, and Chief Revenue-authority in, Oudh.

(*2*) All references made in any enactment as amended by this Part to the Board of Revenue shall be deemed, so far as they relate to Oudh, to refer to the said Board.

(*3*) In any enactment for the time being in force in the territories administered by the Chief Commissioner of Oudh, in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the said day, be construed, so far as the said territories are concerned,

as referring to the Board of Revenue of the North-Western Provinces and Oudh.

Addition to section 2, Act XVII of 1876.

12. To section 2 of the Oudh Land-revenue Act, 1876, the following shall be added, namely:— XVII of 1876.

"'Board' means the Board of Revenue."

Amendment of, and addition to, section 3, Act XVII of 1876.

13. (*1*) In section 3 of the same Act, for the words "the Chief Commissioner" there shall be substituted the words "the Board, subject to the control of the Chief Commissioner".

(*2*) To the same section the following shall be added, namely:—

"Sections 6 to 10, both inclusive, of the North-Western Provinces Land-revenue Act, 1873, shall, so far as may be, apply to the Board when exercising jurisdiction with respect to Oudh." XIX of 1873.

New sections added after section 4, Act XVII of 1876.

14. After section 4 of the same Act the following shall be inserted, namely:—

Appointment, powers and duties of Additional Commissioners.

"4A. (*1*) The Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, appoint an Additional Commissioner in a division.

(*2*) An Additional Commissioner shall hold his office during the pleasure of the Chief Commissioner.

(*3*) An Additional Commissioner shall exercise such powers, and perform such duties, of the Commissioner of a division under this Act, or under any other law for the time being in force, as the Chief Commissioner may from time to time prescribe, but only in such cases as the Commissioner of the division may direct.

(*4*) This Act and every other law for the time being applicable to the Commissioner of the division shall apply to the Additional Commissioner when exercising any powers or performing any duties under sub-section (*3*), as if he were the Commissioner of the division.

4B. (*1*) The

4B. (*1*) The Chief Commissioner may from time to time create new, or abolish existing, tahsils, and alter the limits of any division, district or tahsil, and may divide any district into sub-divisions, and from time to time alter the limits of the sub-divisions, and may from time to time, with the previous sanction of the Governor General in Council, create new, or abolish existing, divisions or districts.

Power to create, alter and abolish divisions, districts, tahsils and sub-divisions.

(*2*) All existing tahsils shall be deemed to be sub-divisions of districts."

15. For the words "Chief Commissioner", wherever they occur in section 4, clause (*a*), sections 28, 29, 30, 35, 46, 70, 85 and 184 of the same Act, the word "Board" shall be substituted.

Amendment of sections 4 (*a*), 28, &c., Act XVII of 1876.

16. For section 13 of the same Act the following shall be substituted, namely:—

New section substituted for section 13, Act XVII of 1876.

"13. Tahsildars shall be appointed by the Board subject to such rules as to qualification or otherwise as the Board, with the previous sanction of the Chief Commissioner, may from time to time make under section 220."

Appointment of Tahsildars.

17. In section 14 of the same Act the words "with the like sanction" are repealed.

Amendment of section 14, Act XVII of 1876.

18. For the first fourteen words of section 16 of the same Act there shall be substituted the words "The Board shall, with the previous sanction of the Chief Commissioner," and for the words "The Chief Commissioner may" in the same section, there shall be substituted the words "The Board may".

Amendment of section 16, Act XVII of 1876.

19. In section 32 of the same Act after the words "the Commissioner of the division" the words "and the Board" shall be inserted.

Amendment of section 32, Act XVII of 1876.

20. In section 39 of the same Act there shall be substituted for the words "as the Chief Commissioner may direct", wherever they occur, the words "as the Board

Amendment of section 39, Act XVII of 1876.

Board or, in the case of a taluqdar, the Chief Commissioner may direct", and for the words "to the Chief Commissioner" the words "to the Board".

New section substituted for section 43.

21. (*1*) For section 43 of the same Act the following shall be substituted, namely:—

Confirmation of settlement.

"43. Every settlement shall be made subject to confirmation by the Chief Commissioner:

Provided that in the case of settlements of individual maháls or parts of maháls undertaken at other times than at the general settlement and sanctioned by the Board, such confirmation shall not be necessary."

(2) The second paragraph of section 4 of Act XIV of 1878 is repealed.

Amendment of sections 44 and 45, Act XVII of 1876.

22. In sections 44 and 45 of the same Act for the words "Governor General in Council" the words "Chief Commissioner" shall be substituted.

Amendment of sections 56, &c., Act XVII of 1876.

23. For the words "Chief Commissioner" wherever they occur in sections 56, 58, 59, 62, 66, 67, 109 and 220 of the same Act, the words "Board, with the previous sanction of the Chief Commissioner," shall be substituted.

Amendment of section 115, Act XVII of 1876.

24. In section 115 of the same Act for the words "such officer as the Chief Commissioner from time to time empowers in this behalf" there shall be substituted the words "such officer as the Board from time to time empowers in this behalf either by name or by virtue of his office".

Amendment of section 124, Act XVII of 1876.

25. In section 124 of the same Act for the words "to the Chief Commissioner, and the Chief Commissioner" the words "to the Board, and the Board, or, in the case of a taluq or part of a taluq, the Chief Commissioner" shall be substituted.

Amendment of sections 125, 131, &c., Act XVII of 1876.

26. For the words "the Chief Commissioner" the words "the Board or, in the case of a taluq or part of a taluq, the Chief Commissioner" shall be substituted in the following sections of the same Act, namely:—in sections 125 and 131, wherever the words "the Chief

Chief Commissioner" occur, in section 132, where the words first occur, and in section 136.

27. In section 158 of the same Act there shall be substituted for the words "by the Chief Commissioner" the words "by the Board", and for the words "to the Chief Commissioner, and the Chief Commissioner may thereupon annul the existing sub-settlement of such mahál or pattí for such period (not exceeding fifteen years) as he thinks fit," the words "to the Board, and the Board may thereupon annul the existing sub-settlement of such mahál or pattí for such period (not exceeding fifteen years) as it thinks fit."

Amendment of section 158, Act XVII of 1876.

28. For the first thirty words of section 161 of the same Act there shall be substituted the words "The Board shall be the Court of Wards".

Amendment of section 161, Act XVII of 1876.

29. For section 163 of the same Act the following shall be substituted, namely :—

New section substituted for section 163, Act XVII of 1876.

"163. (*1*) The Deputy Commissioner shall from time to time inquire whether there are in his district any persons disqualified within the meaning of section 162, and shall report to the Court of Wards the case of any person who is in his opinion so disqualified.

Report by Deputy Commissioner as to disqualified proprietors.

(*2*) On receipt of the report the Court of Wards shall make such order in the case as it thinks fit.

(*3*) Nothing in this section shall prevent the Chief Commissioner or the Court of Wards from putting the provisions of this chapter in force without any report from the Deputy Commissioner."

30. In section 176 of the same Act for the words "the Court of Wards" the words "the Deputy Commissioner of the district in which the suit is brought, or by and in the name of such officer as the Court of Wards may appoint in this behalf" shall be substituted.

Amendment of section 176, Act XVII of 1876.

31. After

New section inserted after section 177, Act XVII of 1876.

31. After section 177 of the same Act the following section shall be inserted, namely:—

Power for Court of Wards to exercise powers through Deputy Commissioners or others.

"177A. The Court of Wards may exercise all or any of the powers conferred on it by this Act through the Deputy Commissioners of the districts in which any part of the property of its wards may be situated or through any other person whom it may appoint for such purpose."

New section substituted for section 190, Act XVII of 1876.

32. For section 190 of the same Act the following shall be substituted, namely:—

Power to call for files of subordinate officers.

"190. The Board and every Commissioner may call for the file of any proceeding held by any officer subordinate to it or him respectively, and may pass such orders thereon as it or he thinks fit."

Amendment of section 191, Act XVII of 1876.

33. In section 191 of the same Act there shall be substituted for the words "Chief Commissioner" the word "Board" and for the words "refer any dispute before him" the words "refer any dispute before it or him".

Amendment of section 217, Act XVII of 1876.

34. For the first two paragraphs of section 217 of the same Act the following shall be substituted, namely:—

"The Board and any officer mentioned in the last preceding section may summon any person whose attendance it or he considers necessary for the purpose of any investigation, suit or other business before it or him.

All persons so summoned shall be bound to attend, either in person or by authorised agent, as the Board or such officer may direct,".

Repeal of second part of section 5, Act XIV of 1878, and of section 45, XVII 1876.

35. The second paragraph of section 5 of Act XIV of 1878 and the whole of section 45 of the Oudh Laws Act, 1876, are hereby repealed, and in the third column of Part I of the second schedule to the latter Act

Act there shall be omitted the words "*for* 'Board of Revenue' *read* 'Chief Commissioner'" in the modification of section 3 of Regulation XXXIII of 1803, and the words "and *for* 'Board of Revenue' *read* 'Chief Commissioner'" in the modification of section 5 of Regulation XI of 1806. and amendment of the second schedule, Act XVIII of 1876.

IV of 1878.

36. For section 8 of the Oudh Local Rates Act, 1878, the following shall be substituted, namely:— New section substituted for section 8, Act IV of 1878.

"8. (*1*) Suits for the recovery from co-sharers, under-proprietors, permanent lessees or tenants as aforesaid, of any sum on account of any such rate, and suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts of Revenue in Oudh as though such suits were suits mentioned in section 108, clause (*15*), (*16*) or (*17*), of the Oudh Rent Act, 1886. Jurisdiction in suits as to rates.

XXII of 1886.

(*2*) Appeals from decisions in such suits shall be cognizable in accordance with the provisions of the said Act as though they were decisions in suits mentioned in section 108, clause (*15*), (*16*) or (*17*), of the said Act."

IV of 1878.

37. In section 9 of the Oudh Local Rates Act, 1878, for the words "Chief Commissioner" the words "Board of Revenue" shall be substituted. Amendment of section 9, Act IV of 1878.

I of 1879.
III of 1879.

38. In section 3, clause (*7*), of the Indian Stamp Act, 1879, and in section 7 of the Destruction of Records Act, 1879, after the words "the North-Western Provinces" the words "and the Chief Commissioner of Oudh" shall be inserted. Amendment of section 3 (*7*), Act I of 1879, and section 7, Act III of 1879.

XIII of 1879.

39. In section 17 of the Oudh Civil Courts Act, 1879, after the words "Civil Procedure, section fifteen" there shall be inserted the words "and of any other enactment for the time being in force"; and there shall be substituted for the words "five hundred rupees" in clause (*c*) of the same section the words Amendment of section 17, Act XIII of 1879.

"one

"one thousand rupees", and for the proviso to the same section the following, namely :—

"The Local Government may, from time to time, on the recommendation of the Judicial Commissioner, direct, by notification in the official Gazette,—

(*a*) with respect to any Munsif named therein, that his jurisdiction shall extend, subject as aforesaid, to all suits of such value, not exceeding two thousand rupees, as may be specified in the notification, or

(*b*) with respect to any Subordinate Judge named therein, that his jurisdiction shall extend, subject as aforesaid, to all original suits cognizable by the Civil Courts,

and may, from time to time, by like notification, withdraw any jurisdiction so conferred."

New section substituted for section 18, Act XIII of 1879.

40. For section 18 of the same Act the following shall be substituted, namely :—

Appeals from decrees and orders of Subordinate Judges and Munsifs.

"18. (*1*) An appeal from a decree or order of a Subordinate Judge in an original suit or proceeding shall, when an appeal is allowed by law, lie—

(*a*) to the District Judge where the value of the suit in which, or in any proceeding arising out of which, the decree or order was made did not exceed five thousand rupees, and

(*b*) to the Judicial Commissioner in any other case.

(*2*) An appeal from a decree or order of a Munsif shall, when an appeal is allowed by law, lie to the District Judge.

(*3*) The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals from all or any of the decrees or orders of any Munsif shall be preferred to such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly."

41. In

41. In section 24 of the same Act, for the words "fifty rupees" the words "one hundred rupees" shall be substituted. Amendment of section 24, Act XIII of 1879.

42. In section 27 of the same Act for the words "Judicial Commissioner" the words "District Judge" shall be substituted. Amendment of section 27, Act XIII of 1879.

43. (*1*) In section 3, clause (*a*), of the Excise Act, 1881, after the words "the North-Western Provinces" the words "and the Chief Commissioner of Oudh" shall be inserted, and the word "Oudh" shall be omitted. Amendment of sections 3 and 10, Act XXII of 1881.

(*2*) In section 10 of the same Act the word "Oudh" shall be omitted.

XXII of 1886.

44. (*1*) In section 3 of the Oudh Rent Act, 1886, after clause (*1*) there shall be inserted the following, namely:— Amendment of section 3, Act XXII of 1886.

"(*1A*) 'Board' means the Board of Revenue."

(*2*) For clause (*13*) of the same section the following shall be substituted, namely:—

"(*13*) 'prescribed' means prescribed from time to time—

(*a*) before the day on which Part II of the North-Western Provinces and Oudh Act, 1890, came into force, by the Chief Commissioner by rules under this Act; and

(*b*) after that day, by the Board by rules made under this Act with the previous sanction of the Chief Commissioner."

45. In section 32, sub-section (*2*), of the same Act for the words "one month" the words "three months" shall be substituted. Amendment of section 32, Act XXII of 1886.

46. To section 108 of the same Act, before the words "Courts other than" there shall be prefixed the words Amendment of section 108, Act XXII of 1886.

words "Except in the way of appeal as hereinafter provided,".

Amendment of section 109, Act XXII of 1886.

47. In section 109, clause (*5*), of the same Act for the words "the Judicial Commissioner" the words "the Board" shall be substituted.

Repeal of words in section 115, Act XXII of 1886.

48. In section 115, sub-section (*1*), of the same Act the words from and inclusive of the words "and hear appeals" to the end of the sub-section shall be repealed.

New section substituted for section 116, Act XXII of 1886.

49. For section 116 of the same Act the following shall be substituted, namely:—

Appeals to Courts of Revenue.

"116. Subject to the provisions of section 119 and of the Code of Civil Procedure as applied by this Act, an appeal shall lie from an original or appellate decree or order made under this Act, as follows, namely:— XIV of 1882.

(*a*) to the Collector when the decree or order is made by an Assistant Collector of the second class:

(*b*) to the Commissioner when the decree or order is made by a Collector or an Assistant Collector of the first class:

(*c*) to the Board when the decree or order is made by a Commissioner:

Provided that, subject to the provisions of section 119, an appeal from an original decree or order of a Collector shall not lie except on the grounds mentioned in section 584 of the Code of Civil Procedure, and that the decree or order made on that appeal shall be final."

Repeal of section 117, Act XXII of 1886.

50. Section 117 of the same Act shall be repealed.

Amendment of section 118, Act XXII of 1886.

51. In section 118, sub-section (*1*), clause (*c*), of the same Act for the words "to the Judicial Commissioner" the words "to the Board" shall be substituted.

52. For

52. For section 119 of the same Act the following shall be substituted, namely :— New section substituted for section 119. Act XXII of 1886.

"119. Subject to the provisions of the Code of Civil Procedure as applied by this Act, an appeal shall lie from an original decree or order of a Collector or of an Assistant Collector of the first class in a suit of a description mentioned in clause (*2*), (*9*), sub-clause (*a*) or (*b*), (*11*), (*15*), (*16*), (*17*) or (*18*) of section 108, as follows, namely :— XIV of 1882. Appeals to Judge and Judicial Commissioner.

(*a*) to the District Judge, if the value of the suit does not exceed five thousand rupees;

(*b*) to the Judicial Commissioner, if the value of the suit exceeds five thousand rupees."

53. After section 119 of the same Act the following shall be inserted, namely :— New sections inserted after section 119, Act XXII of 1886.

"119A. The rules for the time being in force in regard to the time within which appeals from the decrees and orders of Civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals under this Act to the District Judge or to the Judicial Commissioner. Procedure in appeals to District Judge or Judicial Commissioner.

119B. From the decrees passed under this Act in appeal by District Judges an appeal shall lie to the Judicial Commissioner in all cases in which a second appeal is allowed by the Code of Civil Procedure and subject to the provisions of the Indian Limitation Act, 1877. Second appeals. XIV of 1882. XV of 1877.

119C. For the purpose of deciding appeals under this Act a District Judge and the Judicial Commissioner shall have the powers conferred on a Court by this Act." Powers of District Judge and Judicial Commissioner in appeal.

54. All appeals pending when this Part comes into Pending appeals.

into force from decrees or orders passed under the same Act shall be disposed of as if this Act had not been passed:

Provided that the Chief Commissioner may, by order, transfer to the District Judge any appeals then pending before the Commissioner or Collector in cases in which the appeal will under the Oudh Rent Act, 1886, as amended by this Part, lie to the District Judge. XXII of 1886.

New section inserted after section 120, Act XXII of 1886.

55. After section 120 of the same Act the following shall be inserted, namely:—

"*Review.*

Power for Board to review its orders.

"120A. The Board may review and may rescind, alter or confirm any decree or order made by itself, or by a single member, on the application of one of the parties to the case, if preferred within ninety days from the passing of the decree or order."

Omission of words in section 122, Act XXII of 1886.

56. In section 122 of the same Act the words "Commissioner or" shall be omitted.

Amendment of section 123, Act XXII of 1886.

57. In section 123 of the same Act there shall be substituted for the words "The Judicial Commissioner" the words "The Board or the Commissioner", for the words "subordinate to him" the words "subordinate to the Board or the Commissioner," and for the words "competent to dispose of it" the words "competent as regards the nature of the case to dispose of it".

Amendment of section 124, Act XXII of 1886.

58. In section 124 of the same Act for the words "the Chief Commissioner" in each place where they occur the words "the Board" shall be substituted.

Sections inserted after section 124, Act XXII of 1886.

59. After section 124 of the same Act the following sections shall be inserted, namely:—

Power to refer to

"124A. (*1*) If, in any suit instituted or on any appeal

appeal presented, in a Civil Court or in any Court of Revenue, the Judge or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the Judicial Commissioner.

Judicial Commissioner questions as to jurisdiction.

(*2*) On any such reference being made, the Judicial Commissioner may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as the Judicial Commissioner may in his order declare to be competent to take cognizance of the suit or appeal.

(*3*) The order of the Judicial Commissioner on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

124B. In all suits instituted in any Civil Court or Court of Revenue, in which an appeal lies to the District Judge or the Judicial Commissioner, an objection that the suit was instituted in the wrong Court shall not be entertained by the Appellate Court, unless such objection was taken in the Court of first instance; but the Appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.

124C. If in any such suit such objection was taken in the Court of first instance, but the Appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where such objection was taken in Court of first instance.

124D. If in any such suit the Appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its orders either to the Court in which the suit

XIV of 1882.

Procedure where in such cases the Appellate Court has not materials for determining the suit.

was

was instituted, or to any other Court competent to entertain the suit,

and the objection that the order of a subordinate Appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on second appeal."

Amendment of section 158, Act XXII of 1886.

60. In section 158 of the same Act there shall be substituted for the words "Chief Commissioner" in sub-sections (*1*) and (*5*) the words "Board, with the previous sanction of the Chief Commissioner," and for the words "The Chief Commissioner" in sub-sections (*2*) and (*4*) the words "The Board", and for the word "his" in sub-section (*2*) the word "its".

Amendment of section 16, Act IX of 1889.

61. In section 16 of the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889, there shall be inserted after the word and figures "section 108" the word and figure "clause (*2*)". IX of 1889.

PART III.

THE NORTH-WESTERN PROVINCES AND OUDH.

Commencement of Part III.

62. This Part shall come into force on such day as the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Place where the Board may sit.

63. (*1*) Notwithstanding anything in section 152 of the North-Western Provinces Rent Act, 1881, or in section 128 of the Oudh Rent Act, 1886, the Board of Revenue of the North-Western Provinces and Oudh shall, for the disposal of cases under those Acts, sit in such place or places in the North-Western Provinces or Oudh as the said Lieutenant-Governor and Chief Commissioner may, by notification in the official Gazette, appoint in respect to cases under either of those Acts. XII of 1881. XXII of 1886.

(*2*) For

(*2*) For the disposal of cases other than those referred to in sub-section (*1*) the said Board may, subject to the orders of the said Lieutenant-Governor and Chief Commissioner, sit in any place in the North-Western Provinces or Oudh that the Board thinks fit.

Amendment of section 4, Act XIX of 1873.

XIX of 1873.

64. For the second paragraph of section 4 of the North-Western Provinces Land-revenue Act, 1873, the following shall be substituted, namely :—

"The Board shall have the powers conferred by Chapter VII of this Act on Commissioners of divisions."

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TO THE

ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN THE YEAR 1890.

[NOTE.—Entries to which the abbreviations, Ara. Hills, As., Ben., Bom., C. P., L. B., Mad., N., O., P., or U. B., are attached refer only to the Arakan Hills District, Assam, Bengal, Bombay, the Central Provinces, Lower Burma, Madras, the North-Western Provinces, Oudh, the Punjab or Upper Burma, as the case may be.]

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[*Price six annas.*]

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"Magistrate", definition of, amended	X	2 [XXV of 1867, s. 1].
"maund", defined	IX	3 (*17*)
"minor", defined	VIII	4 (*1*)
"Presidency of Bengal", definition of, amended	II	10 [II of 1874, s. 3 (*b*)].
"Presidency of Bombay", definition of, amended	"	10 [II of 1874, s. 3 (*a*)].
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"terminals", defined	"	3 (*14*)
"the Court", defined	VIII	4 (*5*)
"timber", definition of, amended	V	2 (*2*) [VII of 1878, s. 2].
"ticket", defined	IX	3 (*16*)
"tree", definition of, amended	V	2 [VII of 1878, s. 2].
"tree" [L. B.], definition of, amended	"	15 [XIX of 1881, s 3].

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